Accountancy

ESTABLISHED 1889

Interest on Partnership Capital

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The Profession and the Bulge

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Revocable Settlements

THE JOURNAL OF
THE INSTITUTE OF CHARTERED ACCOUNTANTS
IN ENGLAND AND WALES

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The Institute of Chartered Accountants
in England and Wales

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Professional Notes

Under New Auspices

WITH THIS ISSUE we make our bow as the journal of the Institute of Chartered Accountants in England and Wales. We have had a very long history—nearly seventy years—as the publication of the Society of Incorporated Accountants. Now that the Society is being integrated with the Institute it is a cause of some pride to us that we become the journal of the enlarged body. Our aim will be, as well as giving the news of our sponsoring body, to provide a full service of reporting, commentary and discussion on all accounting and cognate subjects—the same aim, indeed, as that which we have had as the journal of the Society. But we now direct ourselves to what is potentially—and what, we hope, will soon prove to be in actuality—a wider audience.

Size alone is perhaps less important than some would have it, but one may note that when integration is complete the Institute will have a membership of some 30,000. This number of members is about the same as the American Institute of Certified Public Accountants now has. The American Institute is growing very fast, so that it is rather doubtful whether the English Institute will, for even a short spell, be the largest professional body of accountants in the world, but it will certainly be the second largest, for as long as can be foreseen.

Meanwhile, the process of integration proceeds. At the Council meeting of the Institute this month, the first batch of entries of Incorporated Accountants, nearly a thousand in all, was approved. It is hoped that a further batch of about 4,000 will be approved early next month

and the bulk of the remainder early in March.

£50 million—or Economic Policy?

THE CORRESPONDENCE BETWEEN the resigning Chancellor of the Exchequer and the Prime Minister invites between-line reading. The ostensible issue was whether the total of Government expenditure in the next financial year should be kept rigidly at the total of this year, as Mr. Thorneycroft, inspired and aided by the Treasury and the Bank of England as well as his two resigning lieutenants, the Financial and Economic Secretaries, insisted it should be, or whether an excess of one per cent. (less than £50 million) remaining in the Estimates after much pruning should be tolerated, as Mr. Macmillan and all the rest of the Cabinet thought necessary.

But interpreting the dispute in terms of economic policies, the underlying issue seems to be a broader one—whether the main emphasis should continue to be restrictionist, through hard money and a Maginot-line defence of the pound, or whether the continued stagnation of production is as alarming a feature of our economy as periodical and acute onslaughts on sterling, making desirable a progressive, if circumspect, shift of emphasis to industrial expansion.

Most accountants would be constitutionally disposed to sympathise with the view that the only sure way of restricting expenditure is to define rigorously a firm limit and then to stick to it whatever the consequences. Many would probably see virtue in defining the limit of next year as the level actually reached this year. There is also likely to be widespread agreement in the profession with Mr. Thorneycroft's determination to cut down on Government expenditure. But it is nevertheless to be hoped that as the new Chancellor of the Exchequer Mr. Heathcoat Amory (who, incidentally, began his career with a firm of Chartered Accountants) while not slackening in the drive against wage inflation, will manage to inject a new dynamic into the economy.

How Watchful a Watchdog?

A DECISION OF the Court of Appeal seriously limiting the powers of the auditor was happily reversed last month in the House of Lords. A Chartered Accountant carried out an inquiry for clients, the appellants in the law case, to ascertain royalties payable to the clients by a company, the respondents, under a document called a "deed of terms." By this agreement, and a sub-licence, the respondents were licensed to make and sell ball-point pens and refills which were protected by letters patent in favour of the licensors, the appellants. The respondents produced to the accountant documents giving details of transactions in ball-points and refills described as "type A," which were within the patent field, and also referring to sales of similar articles, described as of "type B" and "type C," stated not to have been included in the returns because outside the patent field. The accountant asked to be supplied with specimens or specifications of types B and C so as to satisfy himself that they were indeed outside the range of the patent. The respondents refused, saying they were not obliged to give information of their business outside the patent.

By a clause of the deed of terms the respondents were bound to keep all necessary books containing entries necessary for computing the royalties payable to the licensors; to produce the books to the licensors' auditors; and to give all such other information as might be necessary or appropriate to enable the royalties to be ascertained, provided that, if so required by the respondents, the auditors should undertake to treat all such information as confidential and disclosed only for the purpose of verifying the amount of the royalties.

Lord Morton of Henryton said that the auditor could not ascertain the royalties payable without ascertaining whether types B and C were within or outside the patent. The word "verifying" in the agreement afforded a strong indication that the auditor need not accept the statement of the respondents: that was merely a statement of their opinion. The use in the agreement of the words "all such other information" meant that the auditor was entitled to receive information not appearing in the respondents' books of account, and there was inserted a clear limitation on the extent of that other information: it must be necessary or appropriate to enable the amount of the royalties to be ascertained. The information sought by the auditor fell within that limitation. Lord Keith of Avonholm and Lord Denning concurred. Lord Denning said that an auditor was not to be confined to the mechanics of checking vouchers and making arithmetical computations; he was not to be written off as a professional "adder-upper and subtractor."

Viscount Simonds, in a dissenting judgment, remarked that in effect the auditor was saying to the respondents, "How do I know that you are not mistaken or fraudulent? Let me see other articles that I may form my own judgment on them." That was no part of the right or duty of an auditor under an agreement such as the one in the case. The agreement did not intend to authorise such a roving inquiry by the licensor through his auditor. It was not part of the auditor's expertise to determine whether or not an article was protected by a patent (a point to which Lord Morton gave the rejoinder when he said that all the auditor had to do was to obtain the opinion of a patent agent). Lord Tucker agreed with Lord Simonds.

In his speech, Lord Simonds invoked the auditorial proverb: the auditor was a watchdog, not a bloodhound; his duty was not detection but verification. But gagging the dog and locking him in his kennel at the bottom of the garden is not the best way to let him keep watch.

The case was *Fomento (Sterling Area) Ltd.* v. *Selsdon Fountain Pen Co. Ltd.*, reported in *The Times* newspaper on December 5, 1957. The appellants were appealing against a unanimous decision of the Court of Appeal, which had reversed the judgment of Harman, J. He had granted a declaration that the respondents, by refusing the information sought by the auditor, had breached the sub-licence.

Col. Sir Robert Chapman, F.C.A.—Baronet

Brigadier George H. Walton, A.C.A.—K.B.E.

Mr. Gerard J. R. d'Erlanger, A.C.A.—Knight

New Year Honours

IT WAS GOOD to see, high in the New Year Honours list, the names of four Chartered Accountants.

Col. Sir Robert Chapman, F.C.A., receives the honour of a baronetcy. Sir Robert is a partner in Henry Chapman, Son and Co., Chartered Accountants, of South Shields and has been prominent in political, charitable, business and sporting affairs in the North-East.

Brigadier George H. Walton, A.C.A., who is a director of *Thomas Hedley* and other companies, is to become a Knight Commander of the Order of the British Empire.

Mr. Gerard J. R. d'Erlanger, A.C.A., and Mr. Halford W. Reddish, F.C.A., are to become Knights Bachelor. Mr. d'Erlanger has been chairman of *British Overseas Airways Corporation* since 1956 and was chairman of *British European Airways* from 1947 to 1949. Mr. Reddish, chairman and managing director of *Rugby Portland Cement*, is particularly well-known for his addresses and writings on economic subjects.

Mr. W. R. Clemens, F.C.A., a partner in Messrs. Leask, Clemens and Co., Chartered Accountants, Golders Green, Middlesex, we congratulate on receiving the honour of C.B.E.

We also have pleasure in congratulating on their receiving the honour of Officer of the Order of the British Empire Mr. A. N. Ferrier, C.A., who is chief accountant of the North of Scotland Hydro-Electric Board; Mr. N. T. O'Reilly, F.C.A., a partner in N. T. O'Reilly and Partners, Carlisle; Mr. R. S. Borner, A.C.A., A.C.W.A., secretary of the Chartered Auctioneers' and Estate Agents' Institute; and Mr. H. Hayhow, F.S.A.A., Borough Treasurer of West Ham; and on receiving the M.B.E., Mr. H. E. Fairbank, A.S.A.A., Borough Treasurer of Lewisham, and Mr. E. T. Denton, F.C.A., a partner in Edward Denton and Son, Liverpool.

Mr. Halford W. Reddish. F.C.A.—Knight

Two prominent honours outside the accountancy profession which will give pleasure to members of it are the Knighthoods to be conferred on Mr. T. G. Lund, Secretary of the Law Society, and on Mr. E. J. Norman, Chief Inspector of Taxes.

Articled Clerks and Bye-law Candidates of the Society of Incorporated Accountants

FORMS OF APPLICATION under the scheme of integration have now been issued by the Institute of Chartered Accountants in England and Wales to articled clerks and bye-law candidates of the Society of Incorporated Accountants (now in voluntary liquidation). Under the scheme of integration, which became effective on November 2, 1957, all such articled clerks and bye-law candidates (and all former articled clerks and bye-law candidates who come within the terms of the scheme) should apply for registration with the Institute within six months of the effective date, that is, by May 2, 1958.

A great deal of information of value to those entitled to apply, including the relevant clauses of the scheme of integration and the rules of eligibility relating to examinations, is included in the "Notes" which accompany each copy of the form of application.

Any articled clerk or bye-law candidate who is eligible for registration with the English Institute and

has not yet received a form of application should apply direct to the Secretary of the Institute, Moorgate Place, London, E.C.2.

Approved Auditors—

IN 1956 THERE were 2,270 approved auditors holding general appointments under the Industrial and Provident Societies Act, 1893, and the Friendly Societies Act, 1896. General appointments are confined to members of one of the recognised accountancy bodies and permit the holder to audit the accounts of any registered society. During the year 1956 the names on the list of appointments increased by 97; four auditors had their names removed from the list for failing to send returns of audits and eleven because no audits had been carried out for several years.

Statistics of the audits conducted in 1956 by auditors on the list are given below.

In addition to the general appointments there are "restricted appointments," almost entirely of those not qualifying for general appointments but authorised to continue to be auditors of societies for which they had acted before the passing of the Industrial Assurance and Friendly Societies Act of 1948. In 1956 there were 706 names on the list of restricted appointments and the accounts of 990 societies and branches under the Friendly Societies Acts were audited by persons holding such appointments.

—And Lay "Auditors"

THE FIGURES JUST given come from part one (General) of the Report of the Chief Registrar of Friendly Societies for the year 1956 (H.M. Stationery Office, 3s. net). In part two (Friendly Societies) of his report (from H.M. Stationery Office at the same price), the Chief Registrar says that a friendly society that is not obliged by law to appoint an approved auditor should "be careful to avoid appointing any persons as auditors who are not fully capable of carrying out efficiently duties which involve some knowledge of accounting procedure. . . . Where suitable persons willing to act as auditors cannot be found among its members a society should employ an approved auditor."

In illustration of an inefficient lay audit, the Registrar quotes from the reply given by one of two "auditors" on being asked how she verified the existence of the assets shown in the balance sheet:

> Mr. . . . had a list of figures which seemed to correspond but I actually never had anything to do with the actual auditing. I am not sure if I signed for that year in question but I have certainly not signed since as my husband objected to my signing this paper without the books being seen by me and so I informed Mr. . . . that I would not sign and he must seek someone else.

The Registrar comments "an auditor is responsible for verifying the annual return with the relevant accounts and vouchers and ascertaining whether or not it is correct, duly vouched and in accordance with law."

Mr. Ronald Staples

MEMBERS OF THE accountancy profession learned with profound regret of the sudden death last month of Mr. Ronald Staples. Mr. Staples was aged sixty-eight. Only a few weeks before, many accountants had met Mr. Staples at the seventh of his *Taxation* Conferences, when he seemed rather tired but not ill and was looking forward to a holiday in Italy, from which he returned only shortly before his death.

Ronald Staples, with an initiative, business shrewdness and foresight which he demonstrated again and again during his career, gave up his Inspectorship in the Inland Revenue in 1927 to found our contemporary *Taxation*, whose editorship he had relinquished only a short while before his death. In 1937 he became managing director of Gee & Company (Publishers) Ltd., and editor-in-chief of *The Accountant*. Early in the war he founded Staples Press, of which he was chairman and managing director. His interests in general publishing rapidly grew and some half-a-dozen printing works came into his control. He wrote a number of books on taxation, including *Staples on Back Duty*.

Two of the innovations in which Ronald Staples justly took pride and which are associated by accountants with his name are the annual *Taxation* Conferences and the annual awards for public accounts instituted by *The Accountant*.

He was always a kindly and modest man, a very generous one and guided, in a life of hard work and heavy responsibility, by a high sense of social purpose.

Bank Rate Probe

AS WE GO to press, the report has not been issued of the tribunal inquiring into the alleged "leakage" of the decision to raise Bank Rate on September 19 last. It would not be proper to comment upon the main issue until the report is available. But we may observe that the hearings make fascinating reading on the ways in which scraps of knowledge, often picked up by overheard conversations in coffee or public house, can produce an "informed" report in the City columns of the newspapers, and on the incomplete ratiocination that sometimes frames the decision for big deals in securities.

There are two main points on which the report (unless it is an entirely factual one) may be expected to say something for future guidance. Is there any good reason to obey the tradition (from which, in fact, Mr. R. A. Butler departed in the spring of 1952) that Bank Rate changes are announced ceremonially at a a certain minute of a certain hour on a certain day of the week? And is it, on balance, good or bad that a

	Number of societies audited	*Audit fees £'000's*	*Additional charges £'000's*
Societies under Industrial and Provident Societies Acts	6,069	309.5	62.6
Societies and branches (other than collecting societies) under Friendly Societies Acts	6,006	84.4	25.9
Collecting societies under Friendly Societies Acts	100	15.6	0.1

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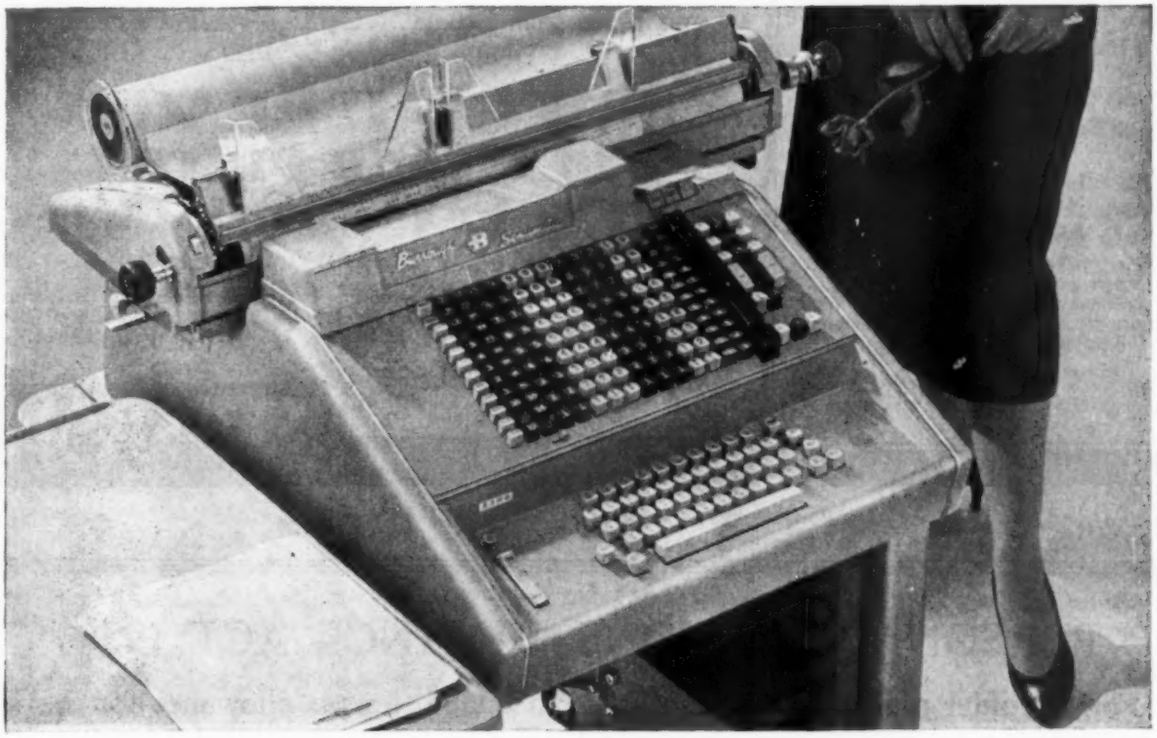

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part-time director of the Bank of England should hold other directorships?

Variation of Trusts

THERE HAS BEEN published the report of the Law Reform Committee on the power of the Court to sanction variation of trusts. There is some chance that the recommendations may come into effect with unusual speed, for a Private Member's Bill, sponsored by Mr. Peter Crowder, M.P., which attempts to bring in reforms along the same lines as those suggested by the committee, has Government support.

The cause of both report and Bill is the decision of the House of Lords in *Chapman* v. *Chapman* [1954] A.C. 429. In that case it was held that the power of the Court to vary trusts of settlements on behalf of infants or potential beneficiaries was confined to instances in which rights were in dispute. It was decided that the power did not extend, as previously it had been considered to extend, to the sanctioning by the Court of trust variations merely for the benefit of the infants or potential beneficiaries.

Here was a serious limitation on the flexibility of trusts. Settlements drawn up in recent years are generally flexible enough in their own terms, but older settlements, designed mainly to preserve the property for future generations and oblivious of tax considerations, often call for variation—to provide the trustees with adequate power of investment, to allow capital payments to be made to beneficiaries, to permit the destination of income among beneficiaries to be changed, and so on. While adult beneficiaries could by agreement make any variations they chose, infants and unborn or unascertained persons who were potentially beneficiaries could have variations made for them only by the consent of the Court. The *Chapman* decision meant that the Court could not vary a trust, unless the rights were in dispute, however necessary the variation might be in the interests of infants and potential beneficiaries in avoiding onerous taxation or unsatisfactory investment.

The decision, however, did not interfere with the accepted view of the operation of Section 57 of the Trustee Act, 1925, relating to powers of management of trust property (not being settled land) or of Section 64 of the Settled Land Act, 1925, relating to power of the Court to sanction transactions in land which might involve a mutation of the rights of infants and potential beneficiaries.

If the recommendations of the committee are enacted in the Bill the power of the Court to vary trusts will be almost completely unlimited.

The whole topic is associated with the controversial issue of tax avoidance. The committee had this aspect very much in mind but concluded that the perpetration by adults of "tax avoidance schemes of questionable character" was no good reason for denying justice to infants and potential beneficiaries.

The Greek Bond Case

THE GREEK BOND case (*National Bank of Greece and Athens S.A.* v. *Metliss*, *The Times* newspaper, November 26, 1957) is a rare instance of an investor here being successful in his claim to satisfaction after a default on an oversea security. The House of Lords has now upheld the Court of Appeal in allowing a bondholder's claim against the appellant bank for six years' arrears of interest on £21,000, part of a £2 million 7 per cent. issue of sterling mortgage bonds issued in 1927–30. Payment of interest had ceased in 1941 and the bondholder succeeded in spite of the fact that in 1949 the Government of Greece passed a law declaring a moratorium on all obligations on the bonds, including any right of action.

The fundamental reason for the favourable result was that by a term of the bonds questions arising had to be settled in accordance with English law. Holders of foreign bonds cannot in general, therefore, take much comfort from the decision in the absence of a similar term, and "the widespread satisfaction in the City of London" reported in the newspapers needs to be somewhat tempered.

The bonds were issued by one Greek bank and guaranteed by another Greek bank as to principal and interest unconditionally. In 1953 by an Act of the Government of Greece the guarantor bank and a third Greek bank (previously unconnected with the bonds) were amalgamated into a new banking company, and it was enacted that the new company was the "universal successor" to the rights and obligations of the amalgamated companies. The law governing the bonds was held to be English law. The plaintiff could sue the new company on the debt in England as an English debt free of the moratorium; acceptance of the foreign law as to the status of the new company did not involve applying the foreign law as to its obligations. These it had taken over as universal successor to the old company, according to Greek law. And the English courts, so it was held, should recognise the principle of "universal succession," although that principle is not part of English internal law.

As one judge put it: "The debtor is a Greek debtor but the debt is an English debt. When we are considering the personality of the debtor or succession to his personal effects, we must apply Greek law because he is a Greek; but when we are considering the amount of the debt and the obligation to pay it, we must apply English law because it is an English debt."

Double Estate Duty on Near-Simultaneous Deaths

ACCIDENTS OCCUR IN which husband and wife are killed, to all intents and purposes simultaneously. But no, not to all intents and purposes—not to the intents and purposes of estate taxation. For the law provides that failing evidence to the contrary the elder of the two is presumed to die first; estate duty is then exacted fully on the estate of the first to die and also fully on the estate of the second, which may well include part or the whole of the estate, less duty, of the first.

A recent instance of the double payment of duty at the expense of young children left by a husband and wife who were killed together in a car crash has prompted the introduction of a Private Member's Bill to

remedy such a state of things. Indeed, the Bill goes rather further, by allowing a month between the two deaths and any relationship between the two deceased. It provides that if within a month of estate duty becoming chargeable on property passing on the death of any person, it again becomes chargeable on the same property or part of it passing upon the death of the person to whom the property passed on the first death, the duty chargeable on the second death shall be reduced by 95 per cent., provided both deaths resulted from the same calamity. If between the two deaths the property had increased in value, the abatement would be on the lower value.

The Bill deserves to pass into legislation, though detailed amendments will be necessary.

TV Takeover

"YOU KNOW, JOE, there's money in this firm; the trouble is they know how to get it out and we don't." This, it is reported, was once said by one director to another on their company being taken over. Such was the theme of the dramatised documentary *Takeover* presented on B.B.C. Television just before Christmas. The drama or documentary (call it what the fancy pleases) was written by Mr. Colin Morris and produced by Mr. Gilchrist Calder, a team which has established a handsome reputation in giving the bones of fact the flesh of drama.

This production should have attracted accountants away from their homework on working papers and report-writing to their television sets. For what other professional men—except possibly stockbrokers—have a greater interest than accountants have in takeover bids (and the struggles which often emerge from them)?

The brisk pace of the production may not have been too fast for knowledgeable viewers, but the intricacies and nuances of the struggle for control were hardly made plain enough for the rest of the audience. The accountant-viewer, knowing the reality lying behind the fictional trio of the financier, lawyer and accountant of the screen, may justly have been a trifle chagrined that the accountant was the least dominant of the trio, making but a fleeting appearance with a balance sheet, having a few lines to say at a general meeting, but otherwise remaining the expert dimly hovering in the background.

On some minor points, those familiar with the City could be critical. Too much time was spent on the details of stock market dealings before the formal bid was made. Too little was made of the countermove by the sitting Board of directors of tucking assets outside the shareholders' control à la Savoy.

But, on the main issue, did the production make its point? Yes, certainly. The conflict was couched in human and dramatic terms. The heart of any takeover struggle was exposed—that sloth in management or undue conservatism gives the bidder his opportunity and that his successful intervention can then pay off in economic terms by injecting efficiency into the company. Mr. Colin Morris dwelt much upon the point that human beings can get scarred and wounded in the process, but that is the stuff of drama.

Confirmed Credits Not to be Frozen

THE LEGAL AND financial implications of confirmed letters of credit do not often come up for review by the courts, and accordingly many doubtful points can be raised by a lawyer though they would not normally give any particular trouble to those who use this method of financing trade. It is, therefore, reassuring to find the Court of Appeal declaring that it would be wrong for the Court to interfere with the established practice (see *Malas* v. *British Imex Industries, Ltd.*, *The Times* newspaper, December 11, 1957). By that practice, according to the Court, the opening of a confirmed letter of credit constituted an agreement between the banker and the seller which imposed an absolute duty to pay without regard to any possible dispute between the parties to the contract of sale.

The foreign purchaser, who had opened letters of credit with the Midland Bank, attempted to restrain by injunction a British exporter who was minded to present a letter of credit and thus to receive payment for the goods delivered. The purchaser thought the goods were not up to the standard required by the contract. They may or may not have been but the Court refused to grant an injunction.

A vendor of goods selling against a confirmed letter of credit really has an assurance that nothing will prevent him from getting the purchase price, and this is no mean advantage when goods are sold from one country to another. Lord Justice Jenkins added that "the system of financing would break down if a dispute between the vendor and purchaser was to have the effect of 'freezing' a letter of credit."

A Precedent for P.A.Y.E.?

SOME PAY CARDS—several thousands of them—will be complicated by a further entry or punched by another hole if, as seems probable, the Maintenance Orders Bill is enacted. Employers will have to deduct from wages any amount of the arrears prescribed by a court in an "attachment of earnings order." They will then have to make over the sums to the clerk or registrar of the court, who will pay them to the wife or ex-wife.

Employers may also be ordered to provide for the court, during a hearing relating to an attachment of earnings order, a statement of earnings of an employee.

For every occasion on which under an attachment order he makes a deduction from wages the employer may also deduct sixpence towards his trouble and expense. Not a large contribution—but could it sometime be a precedent for P.A.Y.E.? The irritated employer who was reported last month to have sent the Inland Revenue a bill for some thousands of pounds for work done in collecting tax via P.A.Y.E. may perhaps derive a very faint hope from the new Bill.

Occupiers' Liabilities

THE OCCUPIERS' LIABILITY Act, 1957, effective on January 1, makes important alterations to the legal liabilities to third parties of occupiers

of land or premises. The changes are the outcome of the recommendations of the Jenkins Committee which reported in November, 1954 (Command 9305).

Before the Act, persons entering premises fell into four categories—those entering for a consideration, invitees, licensees and trespassers.

Towards those who entered for a consideration, such as persons admitted by a ticket that was paid for, the occupier's liability was at its very highest, for he was regarded as implicitly warranting the safety of his premises for the purpose contemplated, as far as was reasonable.

Towards invitees—such as customers in a shop or postmen delivering letters to a householder—the occupier's obligations were on the next highest plane. The obligation was to use reasonable care to prevent damage from unusual danger which the occupier knew or ought to have known.

Towards licensees — persons allowed to enter the premises as a privilege or favour for a purpose in which the occupier had no interest, such as to take a short cut across a field—the obligation was a negative one. Licensees took the premises as they found them, with all attendant risks and dangers. The occupier's duty was not to lay a trap or to expose licensees to a concealed danger, which would not be obvious, or to be expected; and if there was a concealed danger, the occupier's duty was merely to give warning of it.

To trespassers, who entered unlawfully and without permission, the occupier's obligation was also negative, though all that was required was that he should not set traps calculated to do bodily harm. Thus the occupier might have been liable if he went shooting over his estate in such a manner as to endanger persons who he knew, or had reason to believe, might have been trespassing.

The Act abolishes the distinction between invitees and licensees. Towards all such persons it imposes on the occupier a "common duty of care": he must take all reasonable care to see that the visitor will be reasonably safe in using the premises. The extent of the duty may vary according to the circumstances, however. A high standard of care will be required if the visitor is, for instance, a child.

A mere warning of danger, it should be observed, may not be sufficient to absolve the occupier from liability, unless in all the circumstances the warning is enough to enable the visitor to be reasonably safe.

By agreement or otherwise the common duty of care may be restricted, modified or even completely abrogated.

The law previously suffered from the defect that if a landlord was in breach of his repairing covenant, only his tenant could claim against him; third parties, even though they might be relatives of the tenant, could not claim. The position of third parties has now been altered: they will be treated as visitors, to whom the landlord will be under the "common duty of care."

Accountancy—Concessionary Rate for Articled Clerks

OUR CONCESSIONARY SUBSCRIPTION rate now applies to articled clerks of the Institute. Any articled clerk may receive ACCOUNTANCY for 15s. a year, postage included, instead of the normal subscription of twice that amount. Articled clerks are invited to subscribe for the year 1958 by writing to our offices at 23 Essex Street, London, W.C.2, giving their name and address to which the journal is to be sent, mentioning their principal's name, and enclosing a remittance for 15s.

Articled clerks and other students of the Society are also entitled to subscribe at the concessionary rate.

Shorter Notes

The Seventh International Congress of Accountants

A complete report of the Seventh International Congress of Accountants, held in Amsterdam in September, 1957, will be published soon. It will include the speeches delivered at the opening and closing sessions and at the dinner, with reprints of all thirty-one papers presented at the business sessions, the summaries by the *rapporteurs*, and a verbatim report of the discussion on each subject. An English translation will be provided for Dutch, German and French texts in the business sessions. The volume will contain about 700 pages, with many illustrations, in a dark blue linen cover. A copy will be sent to all who attended the congress, the price being included in the congress fee already paid. Towards the end of this month the Institute of Chartered Accountants in England and Wales will be sending to all its members a notice about the volume and an order form, which may be returned to the Secretary of the Institute. Incorporated Accountants not yet admitted into membership of the Institute should send their orders direct to Mr. A. L. de Bruyne, Secretary to the Seventh International Congress of Accountants, 1957, Herengracht 491, Amsterdam, enclosing a remittance for Dutch guilders 25 (approximately £2 10s.).

Hospital Finance Officers

In his report on the administrative and clerical staff in the hospital service (H.M. Stationery Office, 2s. 6d. net) Sir Noel Hall criticises "fragmentation into little worlds"—particularly the secretary's, finance and supplies departments. The most lamentable division is that between the first two departments, he says. Finance is an essential part of administration. The service must build up a supply of men as Regional or Group Secretaries who know enough of finance to work with senior finance officers who are their subordinates. And the finance officers must accept that they are part of a common administrative process for which the Secretary is responsible.

Taxation of Insurance Companies

There has been published as a booklet of fifty-eight pages *The Taxation Treatment of Insurance Companies*, by R. B. Gow, A.C.I.I., A.A.C.C.A. This useful summary of income tax and profits tax as affecting insurance companies last year won the Morgan Owen Medal of the Chartered Insurance Institute, from whose offices at 20 Aldermanbury, London, E.C.2 the booklet is obtainable, at 2s. net. All branches of insurance are covered.

Bankruptcy Law

There has now been published (H.M. Stationery Office, £1 7s. 6d.) the minutes of evidence of the Committee on

Bankruptcy Law Amendment. The minutes give the evidence submitted to the Committee by the Institute of Chartered Accountants in England and Wales and the Society of Incorporated Accountants. The report of the Committee was summarised in our issue of September, 1957 (pages 385/6) and discussed on page 374 of that issue.

The Accountant Annual Awards
Again this year *The Accountant* will make two awards for the best reports of public companies. The companies must have shares quoted on a stock exchange in the United Kingdom, and one of the awards will be for a smaller company. Reports and accounts, with any statements of chairmen circulated to shareholders, laid before companies in general meetings within the year ended December 31 last, have to be submitted before the end of January.

Rating of Plant and Machinery
A committee under the chairmanship of Sir Edward H. Ritson, K.B.E., C.B., until recently Deputy Chairman of the Board of Inland Revenue, is to prepare a new list of all types of plant and machinery that are rateable under the Rating and Valuation Act of 1925. The present list of rateable plant and machinery was laid down in an Order of 1927 and has not been revised since then, although with the development of new types of machinery it has become more and more out of date, leading to much litigation.

South American Debts
Creditors of the Bolivian Government and its agencies, if not covered by the Export Credits Guarantee Department, should communicate with the Board of Trade as soon as possible. Following discussions with the Bolivian Government, a firm offer is expected shortly for settlement of its debts and those of its agencies, principally the *Corporacion Minera de Bolivia*. Agreement has been reached on a settlement of commercial debts owed to British creditors by Colombia, and an initial payment of 20 per cent. of the amount outstanding has been made. The *Bank of London and South America* is getting in touch with creditors about individual settlements.

H.P. Advertisements
From the beginning of this month the Advertisements (Hire Purchase) Act, 1957, requires advertisements of hire purchase or credit sales to give particulars of the cash price, the down payments, the size and number of instalments and the period of repayment. Advertisements must not highlight unduly the more attractive items in the terms of payment and must distinguish clearly between the terms of hire purchase and those of credit sales. Penalties of up to £100 may be imposed for infringing the Act.

Industrial Re-rating
The re-rating of industry to 50 per cent. of its annual value, effective from April of next year, was earlier expected to yield £30 million a year of revenue to the local authorities. The Minister of Housing and Local Government announced in the Commons last month that he now thought the addition to rates payable by industry might be "substantially higher." Mr. Brooke firmly resisted demands by the Opposition for complete re-rating of industry. He said that the re-rating to 50 per cent. provided as heavy an addition to overheads as industry could safely be required to bear, in present economic circumstances and considering the level of export costs.

Inquiry into Fishing
There has been set up a committee "to assess, in relation to developments in fishing and the marketing of fish, the size and pattern, and implications, of an economic fishing industry in the United Kingdom and to report." The chairman is Sir Alexander Fleck, chairman of *Imperial Chemical Industries*. Mr. Ian W. Macdonald, C.A., director and general manager of the *Commercial Bank of Scotland*, is a member.

British Conference on Automation and Computation
A central organisation, known as the British Conference on Automation and Computation, has been set up to provide more effective liaison between bodies interested in automation and data processing. The Conference has three groups. On group B, the British Group for Automation and Automatic Control, the Institute of Chartered Accountants in England and Wales is represented by Mr. J. D. Green, F.C.A.—who has been elected Honorary Treasurer of the group—and Mr. P. D. Irons, B.COM., A.C.A., a member of the Council of the Institute. The Institute of Chartered Accountants of Scotland is also a member of group B. Secretarial services for the group are being provided by the Institution of Electrical Engineers.

Working Conditions in Offices
The Gowers Committee in its report in 1949 recommended that there should be statutory standards of conditions of employment in offices. A Private Member's Bill, the Offices Regulation Bill, has been introduced to bring in such conditions. The minimum space per employee is put at 400 cubic feet (not allowing for furniture and machines): standards are prescribed for sanitary, washing and other facilities and for lighting, temperature and ventilation; and all offices are required to be registered.

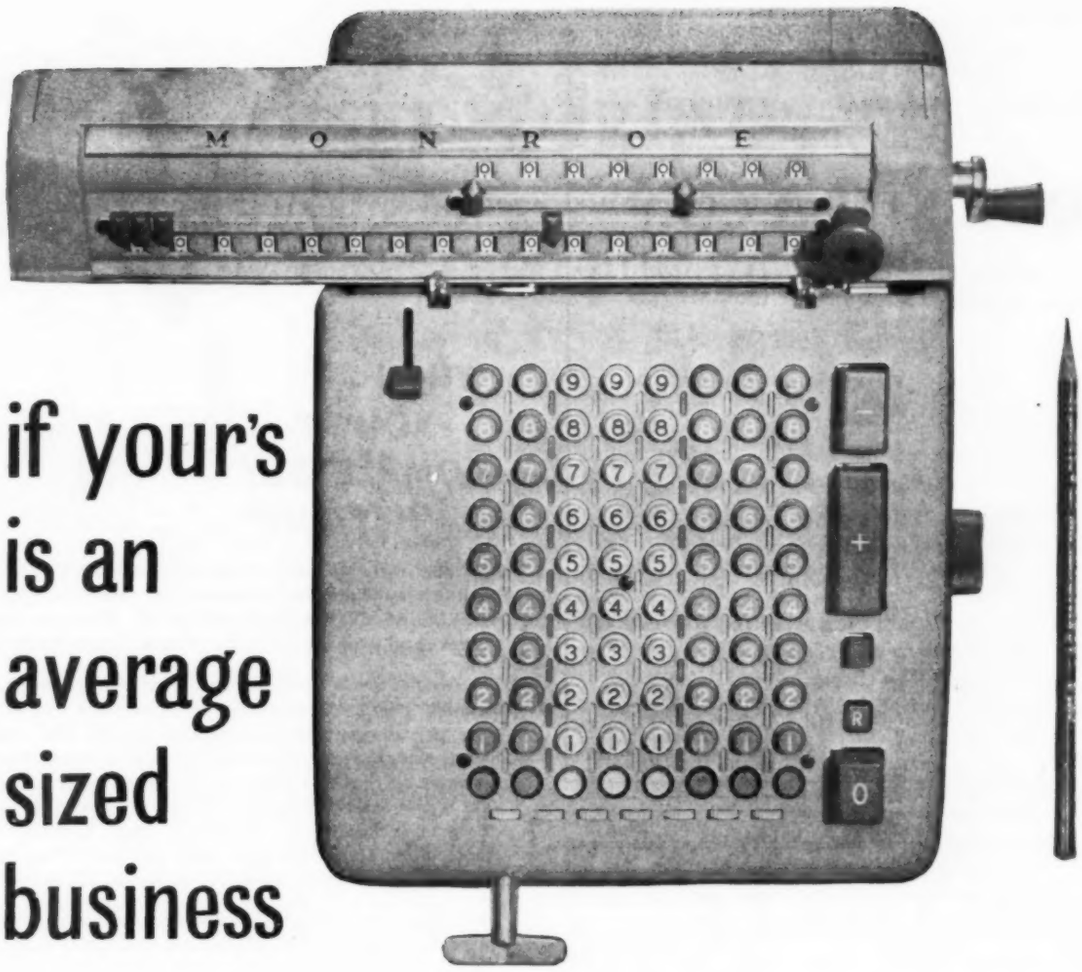
Canadian Woman Accountant Becomes Cabinet Minister
Mrs. Ellen Fairclough, a member of the Certified Public Accountants' Association of Ontario, is Secretary of State in the Progressive Conservative Government in Canada, and a member of the Cabinet. She is the first woman to reach Cabinet rank in the Dominion. Mrs. Fairclough has been a member of the Canadian House of Commons since 1950. Previously she was Controller of Hamilton in Southern Ontario, and before that an alderman of the town.

Express Post
The Rt. Hon. Ernest Marples, M.P., A.C.A., the Postmaster-General (one of the Incorporated Accountants in the first batch of entrants to the Institute under integration) has won the Downhill ski race in the Inter-Parliamentary contest at St. Moritz.

CHANGES OF ADDRESS BY SUBSCRIBERS

Any subscriber to ACCOUNTANCY changing the address to which he wishes his copies of the journal to be sent is asked to notify us at our offices at 23 Essex Street, London, W.C.2.

Members of the Institute of Chartered Accountants in England and Wales are particularly requested to note that changes of address reported to the offices of the Institute at Moorgate Place for the records of the Institute are not passed to the ACCOUNTANCY offices. The address of a member on the records of the Institute does not necessarily correspond with the address to which the member requires the journal to be sent, and a member may or may not be a subscriber to the journal. Thus it is necessary for ACCOUNTANCY to be separately notified if there is a change in the address for the posting of the journal.



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EDITORIAL

The Profession and the Bulge

PROBABLY the biggest worry of the accountant-in-the-street these past few years has been the shortage of staff. To obtain recruits he has had to compete with industry, and he has had to compete at a time when industrial opportunities have been multiplying. The schools have begun, in response, certainly, to a very real national need, to promote the flow of the brightest of school-leavers—say the upper quartile in public and grammar schools—into science and technology, which in any event seem to many young people to have a glamour and a future all their own. Thus it has remained difficult to keep accounting departments in business concerns fully manned, doubly difficult to secure recruits into the larger practising firms and even more difficult to staff the smaller practices.

Nevertheless, in the face of all the difficulties there has been an influx of about 1,600 articled clerks into the Institute in each of the last three or four years. Aspirants to membership of the Scottish Institute and the Society have each year been about the same in number. The total of 3,200 newcomers is just about one per cent. of the boys reaching the age of seventeen-plus in those years. That this small percentage has remained a steady one may perhaps be taken as some indication of the improvement that has occurred in the financial terms offered to incomers by accountants. To be sure, there is—most fortunately—the hard core of school-leavers who are determined and destined to become accountants come what may, and to whom the financial equation, in the early years at least, means very little. But superimposed on them there is a layer of young people—undoubtedly a much thicker layer than the hard core—who weigh what Adam Smith called the "net advantages" of the career, putting into the balance such factors as the worthwhileness of the job in itself and the promise it holds out for later years, but putting also into the balance the immediate financial return. Even ignoring the remainder of the recruits—no more, it is to be hoped, than a thin layer—who look for nothing other than cash on the barrel-head, to tilt the Smithian net advantages enough towards accountancy to maintain the inflow of one per cent. per annum has meant that most employing accountants have had to revise pretty drastically their ideas of how much to offer Smith Minor when he says he is thinking about entering into articles.

All that has been in a context in which every year rather more than 300,000 boys became seventeen-plus years old. But very soon a big change will be taking place. By next year the figure will have become about 350,000 and it will further grow almost every year during the following quinquennium, reaching about 470,000 at its peak in 1964. The years 1942 to 1947 were years when the birth rate soared, and the result is what the demographers and statisticians call the "bulge," which last year began to show itself in the fifteen-plus age group and next year makes its first appearance in the seventeen-plus group. Nor is that all. While during the next six years the bulge is showing itself, and swelling, it is planned that the call-up to National Service will finish at the end of 1960 and that there will be a running-down of the Forces by more than 60,000 in each of the coming five years. In the upshot, the supply of boys of articled-clerk age is likely to be running, five or six years from now, at a peak-rate considerably higher than the statistics of birth rates in the 'forties, taken alone, would suggest. Changes in National Service are about to shape a bulge of their own, which will last until 1962.

We may surely expect that the bulge will help to ease the pressing problem of recruitment into the accountancy profession. But—some caution! The demands of industry and science will accelerate, in the *sputnik*, nuclear, electronic age; education—and the spending of public money on education—will be geared to those demands; commerce, too, will be looking for a bigger intake of well-educated young people. And, even more important, it is of the nature of a bulge that it bulges. In 1965 the annual supply of seventeen-plus boys will decline, and though it will be another five years after that before the pre-1959 figure will be reached again, in every one of the five years the supply will drop. Thus it would be unwise to lean heavily upon the bulge during the coming five or six years; ill-advised not to use every opportunity to show young people and their careers masters and parents—in the words of the booklet *Why not become a Chartered Accountant?* recently issued in numbers by the Institute in order to show them—that accountancy gives "a satisfying and rewarding career"; short-sighted to relax efforts to attract school-leavers into the profession, whether by further improvement of the financial conditions or in other ways.

How should interest on capital be apportioned among the members of a partnership? Our contributor suggests that the method generally followed does not ensure that interest comes wholly out of profits, and is therefore inequitable and should be changed.

Interest on Partnership Capital

by C. A. Whittington-Smith, LL.M., A.C.A.

A QUESTION OF some practical importance can arise in partnership accounting if interest on capital is payable but there are insufficient profits in any year to enable the interest to be charged in full. It will be remembered that partners are not entitled to interest on capital (as distinct from loans or advances beyond the amount of capital they have agreed to subscribe) in the absence of agreement. The agreement can be either express or implied from a course of dealing—as, for example, if the partnership deed is silent on the point but it has nevertheless been the custom of the firm to charge interest on capital in accounts accepted year by year by partners who have no doubt signified their acceptance by signing the balance sheet.

Let us suppose that a firm has three partners, X, Y, and Z, who share equally in profits and losses and are entitled to interest at the rate of five per cent. a year on the credit balances on their capital accounts, which as at July 31, 1956, were as follows:

X, £10,000 Y, £5,000 Z, £3,000

Let us assume also that, in accordance with generally accepted modern practice, profits and interest on capital are credited and losses debited to current accounts rather than to the partners' capital accounts.

If there were no contributions or withdrawals of capital in the year ended July 31, 1957, how should the £900 which is chargeable for interest on capital be treated in the accounts if the profit for the year, before charging interest, amounts to, say, £270?

One answer frequently given is that the full charge of £900 should be debited to the profit and loss account or the profit and loss appropriation account and the resultant "loss" of £630 divided between the partners in profit and loss sharing ratios; in the case of X, Y, and Z equally. Let this method be called method A.

Assuming, then, that there were no balances on the partners' current accounts as at July 31, 1956, they will show, other things being equal, the following position as at July 31, 1957:

	X	Y	Z	Total
	£	£	£	£
Interest on capital ..	500	250	150	900
Less "loss"	210	210	210	630
Balance carried forward	290	40	Dr. 60	270

Another way of dealing with the matter—which we will call method B—is to restrict the charge for interest to the available balance of profit, proportionately for the individual partners to the balances on their capital accounts, as follows:

	£		£
Interest on capital		Profit	270
X, 10/18ths	150		
Y, 5/18ths	75		
Z, 3/18ths	45		
	270		270

By this method the current accounts will show as at July 31, 1957:

	X	Y	Z	Total
	£	£	£	£
Interest on capital	150	75	45	270
Balance carried forward ..	150	75	45	270

Which method is correct or, if they are simply permissible alternatives, which is preferable?

In order to answer this question let us consider the position which, assuming that the partnership continues unchanged, may arise under both methods of accounting as at July 31, 1958, if

(1) there are ample profits for the year against which to charge interest on capital, or

(2) the profits are again insufficient to cover the full amount of interest, or

(3) there is a loss on trading.

In the event of (1), if method A was applied in 1957, with a profit of, say, £2,100 for the year ending July 31, 1958, the trading and profit and loss account for the year will show:

	£		£
Interest on capital		Profit	2,100
£			
X 500			
Y 250			
Z 150			
—	900		
Balance, divisible equally			
£			
X 400			
Y 400			
Z 400			
—	1,200		
	£2,100		£2,100

Assuming that there were no withdrawals against the balances on the partners' current accounts as at July 31, 1957, their current accounts as at July 31, 1958, will show:

(i) *If method A was applied as at July 31, 1957—*

	X	Y	Z	Total
	£	£	£	£
Balance brought forward as at July 31, 1957	290	40	Dr. 60	270
Interest on capital ..	500	250	150	900
Net profit	400	400	400	1,200
Cr. Balance carried forward	1,190	690	490	2,370

(ii) *If method B was applied as at July 31, 1957, and no adjustment is now made for the deficiency of interest charged in the year to July 31, 1957—*

	X	Y	Z	Total
	£	£	£	£
Cr. balance brought forward as at July 31, 1957	150	75	45	270
Interest on capital ..	500	250	150	900
Net profit	400	400	400	1,200
Cr. balance carried forward	1,050	725	595	2,370

It ought, however, to be asked whether if method B was applied in the previous year the deficiency of interest credited to the partners, as a result of the abatement for that year, should not now be made good, so that the arrears would be charged in the profit and loss account for the year ending July 31, 1958, and the current accounts as at that date would be as follows:

PROFIT AND LOSS ACCOUNT

	£		£
Interest on Capital:		Profit	2,100
£			
X, 500+350=850			
Y, 250+175=425			
Z, 150+105=255			
—	1,530		
Balance divisible			
X, one-third 190			
Y, „ 190			
Z, „ 190			
—	570		
	£2,100		£2,100

CURRENT ACCOUNTS

	X	Y	Z	Total
	£	£	£	£
Cr. balance as at July 31, 1957	150	75	75	270
Interest on capital:				
Arrears for year ended July 31, 1957 ..	350	175	105	630
Year to July 31, 1958 ..	500	250	150	900
Net profit	190	190	190	570
Cr. balance as at July 31, 1958	1,190	690	490	2,370

It will be observed that the balances on the current accounts as at July 31, 1958, will now be precisely the same as under method A inasmuch as for the two years taken together we shall have divided the same aggregate net balance between the partners in profit and loss sharing ratios:

	Method A		*Method B*
	£		£
Year ended July 31, 1957 "Loss"	630		Nil
Year ending July 31, 1958 Net profit	1,200	Net profit	570
	570		570

Does it really matter, then, which method of accounting was adopted for the year ended July 31, 1957, provided that the abatement of profits under method B is made good out of future profits?

Before answering this question, let us consider a little more closely the position already adumbrated as at July 31, 1958, if (1) the profits for the year are insufficient to cover the full interest charge and (2) there is a loss.

Supposing, then, a profit of, say, £1,170 (which is somewhat less than the aggregate of £900 interest for the year plus arrears of £630 brought forward under method B), the profit and loss account for the year to July 31, 1958, will show:

Under method A

	£		£
Interest on capital	900	Profit	1,170
£			
Balance, X, 90			
Y, 90			
Z, 90			
—	270		
	£1,170		£1,170

Under method B

There must again be an abatement of interest, calculated as follows:

	X	Y	Z	Total
	£	£	£	£
Arrears for year to July 31, 1957	350	175	105	630
Amount due for year to July 31, 1958	500	250	150	900
	850	425	255	1,530

Amounts chargeable to profit and loss:

	£
X, 10/18ths of £1,170 =	650
Y, 5/18ths „ „ =	325
Z, 3/18ths „ „ =	195
	£1,170

The current accounts as at July 31, 1958, will show balances as in I below.

It remains now to set out the position in the event of a loss of, say, £2,700 for the year ending July 31, 1958, when the profit and loss account will be as follows:

(i) *Under method A*

	£		£
Loss	2,700	Current Account:	
Interest	900	X	1,200
		Y	1,200
		Z	1,200
	£3,600		£3,600

(ii) *Under method B*

	£		£
Loss	2,700	Current Account	
		X	900
		Y	900
		Z	900
	£2,700		£2,700

The current accounts will record balances as in II below.

The figures speak for themselves. It is hoped they clearly demonstrate the inequities that can arise if the treatment of interest on capital for any year in which there is either a loss or insufficient profit to cover the interest in full is decided upon without the most careful consideration wherever the partnership deed is silent upon the matter or a course of dealing under such circumstances has not already been established. Even if method A is prescribed by the partnership deed or is sanctioned by past usage there seems to be much to commend a variation of the agreement or usage to a fresh course of dealing under method B. This, moreover, seems to be the method to be used where Section 24 of the Partnership Act, 1890, applies, since in prescribing

Current Accounts—I

	X Method		Y Method		Z Method		Total Method	
	A	B	A	B	A	B	A	B
	£	£	£	£	£	£	£	£
Balance as at July 31, 1957	290	150	40	75	*60*	45	270	270
Interest on capital	500	650	250	325	150	195	900	1,170
Net profit	90	—	90	—	90	—	270	—
Balance as at July 31, 1958	880	800	380	400	180	240	1,440	1,440

Current Accounts—II

	X Method		Y Method		Z Method		Total Method	
	A	B	A	B	A	B	A	B
	£	£	£	£	£	£	£	£
Cr. balance as at July 31, 1957	290	150	40	75	*60*	45	270	270
Interest on capital	500	—	250	—	150	—	900	—
	790	150	290	75	90	45	1,170	270
Less loss	1,200	900	1,200	900	1,200	900	3,600	2,700
Dr. balance as at July 31, 1958	410	750	910	825	1,110	855	2,430	2,430

Supplement to ACCOUNTANCY, *January 1958.*

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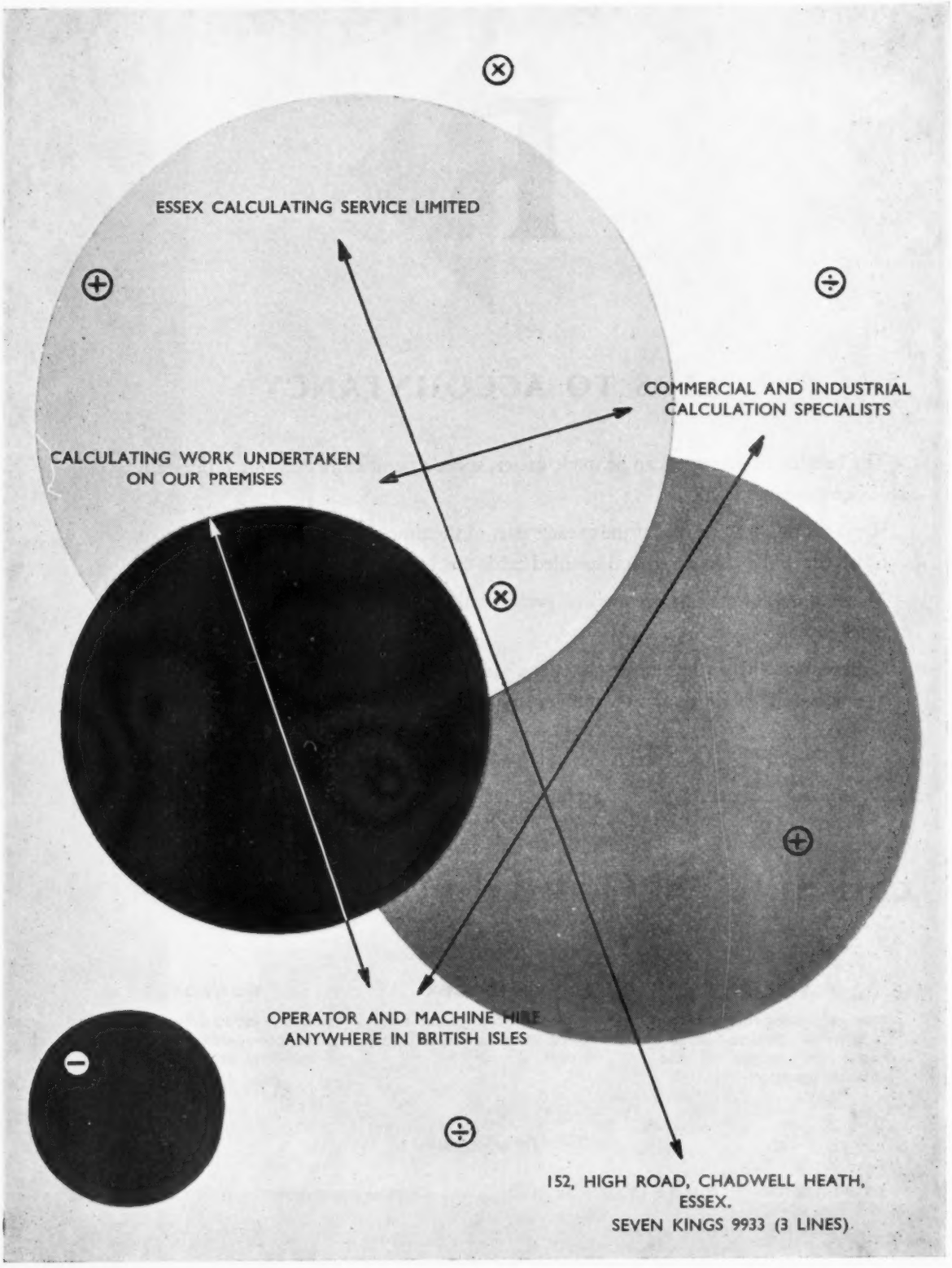
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rules for the purpose of determining:

> The interests of the partners in the partnership property . . . subject to any agreement, express or implied, between the partners

the Section includes the stipulation in sub-Section (4) that:

> A partner is not entitled, before the ascertainment of profits, to interest on the capital subscribed by him.

It is true that accounting by method A will make no difference to the ultimate relative positions of the partners provided there are sufficient future profits to restore what it is submitted is the true position: namely, that interest on capital should come wholly out of profits. If it does not do so, it is the capital position of one or more partners that must benefit at the expense of another or others, even if only temporarily. But who is to know whether or not there will be profits next year or the year after, or whether in the meantime the state of things will be further vitiated by the death or retirement of a partner?

The accountant who is called upon to decide or advise upon the issue as and when it arises may well find himself in danger of falling between more than the proverbial two stools; and though King Solomon does not on this occasion provide him with a precedent it is suggested that the Partnership Act does and that accounting by method A—which there is reason to believe is widely used—should be abandoned in the interests of both justice and equity.

Failure to make annual returns is only one of the many "defaults" which may lead to a Board of Trade prosecution. The scope of this process of the criminal law is considered.

Defaults by Company Officers

by W. H. D. Winder, M.A., LL.M.

"IF DEFAULT IS made in complying with this Section, the company and every officer of the company who is in default shall be liable to a default fine." Some such words as these run like a refrain through the Companies Act, warning officers of a company that there may be penal consequences, as well as others, attending slackness in the performance of such duties as sending annual returns to the Registrar. Prosecutions by the Board of Trade under the Companies Act, 1948, are frequent, as appears from the *General Annual Reports on Companies* issued by the Board. According to the latest report there were 346 prosecutions last year, none of which was dismissed; there were 308 convictions, five cases being adjourned and the summons being either not served or withdrawn in 33 cases.

The earliest Section in the Act on which a prosecution was based was Section 52, for failure to file a return of allotments. The latest was Section 374, covering failure by receivers and managers to deliver accounts to the Registrar. The largest number of prosecutions (194) was brought under Section 131 for failures to file annual returns. The next highest number (70) was for failures by voluntary liquidators to file accounts under Section 342.

These comprehensive penal provisions are certainly necessary but the courts have sometimes regretted that there are not, in addition, other methods available to secure compliance with the Act. In a recent civil case in the Chancery Division (*In re Moses & Cohen Ltd.* [1957] 1 W.L.R. 1007), Mr. Justice Roxburgh said that the civil court should be allowed, as a condition of the restoration of a company to the register, to impose penalties for neglecting to make returns. It appeared that in this case the Board of Trade did not contemplate any proceedings for "default," apparently because it might have been difficult to satisfy a criminal court that the company officer in question, the promoter-secretary, had acted "knowingly and wilfully." Moreover, said Roxburgh, J., "a criminal prosecution might seem like a sledge-hammer to crack a nut of incompetence and inattention to duty, and this might result in reluctance to convict. But, in the event, these important statutory provisions can, in general, be disregarded with impunity; and statutes only enforceable with difficulty, if at all, tend to debase the currency of the law."

Restoration to Register after Defaults

In the case a petition was presented by one of the directors of a company for its restoration to the register; the question arose whether breaches of their statutory duties by the officers of the company, breaches in respect of which they had become liable for "default fines," ought to be allowed to pass without further notice. A firm of solicitors instructed a Mr. H., a non-practising barrister, to form a company of estate agents and mortgage brokers. The instructions stated the address of the proposed registered office and the names of the proposed directors

and of the proposed secretary (H. himself). H. and his wife were directors of a company which carried on the business of specialists in company formation; they were both active in that business and the company claimed to have incorporated more than 4,000 companies.

The new company was incorporated on June 18, 1955, by H. or his company. His wife and he (described as "barrister-at-law") subscribed the memorandum and articles of association, in which he was named as first secretary. Neither the company, nor its directors, nor its promoter-secretary complied with Section 107 (2) or Section 200 (4) of the Companies Act, 1948, within the period prescribed, or at all. The first of these Sections requires notification of the situation of the registered office of the company to be given within fourteen days of incorporation and the second requires notification of any change among the directors or in its secretary. On July 13 H. resigned as secretary; his place was taken by a young solicitor's clerk, who had never been called upon to perform any duties in the day-to-day affairs of the company and was under the impression that all matters concerning the company would be attended to by its directors and that they would bring to his attention any formalities requiring his signature.

On May 21, 1957, the company was struck off the register. Before striking it off, the Registrar sent notices to H. and his wife at the address of their company. They completely ignored them. Later one of the directors presented a petition to the High Court for the restoration of the company to the register.

The petition was successful, the Judge saying that an order for restoration to the register "must be made, because to keep them off for ever would be too great a penalty for the shortcomings of their directors and their promoter-secretary." "But am I bound to allow these breaches of the Act to pass without further notice?"asked Roxburgh, J., and replied, "Unfortunately, I believe that I am."

He thought there seemed to be a case for allowing the High Court in such circumstances as in the case before him to impose some penalty (beyond costs) on the company, as a term of its restoration to the register: "I should have thought fit to do so; but I find that I have no jurisdiction. I must either impose the extreme penalty (which would be unjust) or none at all."

As long ago as 1905 Buckley, J. (the author of the well-known book on company law), having remarked on the frequency of applications for the restoration of companies to the register, said that if he had jurisdiction to do so, he would mark his disapproval by ordering some penalty to be paid as a condition of making a restoration order, but he found that he had no power to do this (see *In re Brown Bayley's Steel Works Ltd.*, 21 T.L.R. 374). He is reported as having "concluded his observations by saying that he hoped that those who had the control of the amendment of company law would consider whether the law on this subject did not require alteration."

In 1957, Roxburgh, J., remarked in *In re Moses & Cohen Ltd.*, "Perhaps after fifty years it may not seem premature to draw attention once more to the frequency of these applications and to the underlying cause."

Meaning of "Officer in Default"

As was hinted at in the judgment in this case, one reason why direct criminal proceedings for default were not taken in a criminal court against the company officer concerned was the possible difficulty of proving the defaults, bearing in mind the degree of proof required in such a court and the special provisions of Section 440 (2) of the Companies Act. These provisions are as follows:

> For the purpose of any enactment in this Act which provides that an officer of a company who is in default shall be liable to a fine or penalty, the expression "officer who is in default" means any officer of the company who knowingly and wilfully authorises or permits the default, refusal or contravention mentioned in the enactment.

It is clear that the court must be satisfied not only that the officer authorised or permitted the offence but that he did so with knowledge and "wilfully," whatever the exact meaning of these requirements are. Unfortunately there are few reported decisions on this Section of the Act and its predecessors in earlier Acts which were drafted in similar terms.

A case which is cited in several textbooks on company law, *Beck* v. *Board of Trade* (76 Sol. J. 414), is not fully reported so that we are without the benefit of a strong Divisional Court's (Lord Hewart, C.J., Avory and Macnaghten, JJ.) reasoned analysis of Section 365 (2) of the Companies Act, 1929, now Section 440 (2) of the Act of 1948. The Divisional Court allowed appeals against conviction by a metropolitan magistrate (convictions which had been upheld by quarter sessions) of failing to pay stamp duty on contracts of allotment of shares. This default is now defined in Section 52. The brief report simply says that "there were no materials on which the appellants could be convicted" and Section 365 (2) was referred to.

It cannot be deduced from this case that the "wilfully and knowingly" provision constitutes undue protection for officers in default. In the fully reported and much earlier case of *Edmonds* v. *Foster* (1875, 45 L.J. (M.C.) 41) the nature of this protection was considered by the Divisional Court and was held not to avail a director who was charged in respect of failure to make the necessary returns of members. After holding that the appellant was a director, Lord Coleridge, C.J., said, "Now, in my judgment, there is *prima facie* evidence that he 'knowingly and wilfully' permitted the default upon the part of the company, for a director is one 'who directs' the proceedings of the company. No steps can be taken and no omission can occur in its management without his having the power to raise an objection. He is therefore *prima facie* responsible for any default on the part of the company, and the burden of proof lies upon him to show that the failure to do what was required of the company happened without any blame attaching to him."

The Burden of Proof of Default

Much has been written about the real or imagined

iniquity of some sections of the Companies Act in imposing on directors and other officers of a company the burden of proving their innocence of criminal charges. Section 44 (1), for example, creates criminal liability for mis-statements in a prospectus unless the person who authorised its issue "proves either that the statement was immaterial or that he had reasonable grounds to believe and did, up to the time of the issue of the prospectus, believe that the statement was true." It is not proposed to embark on one more discussion of the sense in which this type of enactment transfers the burden of proof from the prosecution to the defence. This type of enactment has an effect contrary, though not directly opposite, to the effect of enactments like Section 440 (2), which expressly lays down that the offence must be committed "knowingly and wilfully." It may be that even under the general law all criminal offences must be committed with knowledge and that the accused must will them. But when a statute goes out of its way to add these qualifying words to the definition of a crime the burden of proof resting on the prosecution is made heavier.

This is not to say, however, that knowledge and willingness cannot be satisfactorily established by inferences to be drawn from proved facts. The burden on the prosecution is not so onerous that the accused's state of mind can only be proved by a confession or admission that he willed the default. His state of mind can be sufficiently proved by drawing inferences from the proved circumstances, as the decision in *Edmonds* v. *Foster* shows.

A good example of how such an inference may be drawn is to be seen in *Gibson* v. *Barton* (L.R. 10 Q.B. 329) where a manager was convicted of knowingly and wilfully authorising or permitting the default of the company in failing to make the annual return of members to the registrar. The list of members had to be a list of those who were members on the fourteenth day after the ordinary general meeting of the company. The manager had taken no steps to call the ordinary general meeting and thereby made it impossible for him to forward such a list of members. In fact he sent no list at all. The Divisional Court upheld his conviction by the City justices. In his judgment Blackburn, J., said:

> A meeting is to be called by order of the directors, and not by any individual person; but cannot a director or manager be guilty of wilfully authorising or permitting a default by the company? I think that he can. I think it is a question of fact whether they have or not; but I think if a man is allowed to manage the company, so that *de facto* he can get a meeting called when he likes, and he does not show that he ever made the attempt to call a meeting, it is some evidence that he has knowingly and wilfully (that is a question of fact for the justices) permitted default in calling the meeting, the meeting being necessary as a condition precedent before a list of members could be sent . . . if he knowingly and wilfully permits the company to make a default in what is a condition precedent to sending in the list, I think he knowingly and wilfully permits the default of not sending in the list, and makes himself liable to the penalty of not sending in the list.

This decision was followed in *Park* v. *Lawton*, in which case Lord Alverstone, C.J., said that *Gibson* v. *Barton* and *Edmonds* v. *Foster* were clear authorities that a person charged with failing to send annual returns of members was not entitled by way of defence to plead the impossibility of complying with the Act by reason of no general meeting having been held, at any rate if the person charged was also a party to the default in holding the meeting: "In other words, a person charged with an offence cannot rely on his own default as an answer to the charge."

Defaults as Continuing Offences

Although the penalty for a default is usually small the default may be, and usually is, a continuing one which attracts, for each day during which it continues, liability to the same fine. Section 440 (1) of the Companies Act, 1948, makes it clear that a default is a continuing offence. It might well have been treated as a continuing offence on general legal principles even apart from the following express words of Section 440 (1):

> Where by any enactment in this Act it is provided that a company and every officer of the company who is in default shall be liable to a default fine, the company and every such officer shall, for every day during which the default, refusal or contravention continues, be liable to a fine not exceeding such amount as is specified in the said enactment, or, if the amount of the fine is not so specified, to a fine not exceeding five pounds.

Failure to make annual returns may lead to default proceedings and fines several years after the initial failure to make the returns, in spite of the rule that for summary offences there is a time limit barring prosecutions. This was decided by the Divisional Court in *R.* v. *Catholic Life & Fire Assurance & Annuity Institution, Ltd.* (1883, 48 L.T. 675) on a successful appeal by the prosecutor, who contended that a fresh offence was completed at the end of every day during which the default continued. And apparently once made the default continues for ever, unless put right.

But this does not mean that daily fines could accumulate for more than a year. They could accumulate only for twelve months at the most, as this is the period within which a prosecution for these offences must be brought (see Section 442 (1) of the Companies Act, 1948). Most summary offences must be prosecuted within six months, but this period is extended to twelve months by the Companies Act.

It will be observed that Section 440 (1) uses the term "contravention" as well as the term "default." Various "contraventions" are described in different parts of the Act. Some carry penal consequences, some civil. Contraventions with penal consequences are usually more serious offences than defaults. For example, any person who "acts in contravention" of the provisions of Section 38 (which deals with matters to be set out in a prospectus) is liable to a fine not exceeding £500. More serious still are the special "misdemeanours" defined in the Companies Act, for example, the misdemeanour under Section 438 of wilfully making a false statement in certain documents, knowing it to be false.

Britain and Euro-Economics

ONE OF THE advantages of a highly industrialised society is that it can support expert agencies and entrust them with the preparation of special economic reports, which until recently only governments were competent to undertake. In Britain the application of economic analysis to the general problems of industry really began only after the war but it is developing fast. There has just been published by the *Economist Intelligence Unit*, a research organisation set up by *The Economist* newspaper and now numbering about a hundred workers, a study* of the probable effects of the common market and the European free trade area; the book is an earnest of the invaluable work that can be done by such economic agencies. The preparation and publishing of this particular study was made possible by the support of a handful of industrial sponsors who galvanised a wider section of British industry to contribute towards the cost.

Perhaps the most revealing observation on this study is that it succeeds in exploding the myth about German industrial superiority, as a "built-in" quality, in relation to Britain. Certain special circumstances—the large influx of refugee labour, the comparative docility of the German trade unions, longer working hours and the small demands of defence—have all combined to enhance German industrial efficiency, output and competitiveness. Signs are not lacking that times are changing and these special advantages, even longer hours of work, may not last long. But—and it is a large but—to compete with Germany on an equal footing in the future, the British economy must devote an increasing proportion of its gross national product to the re-equipment of manufacturing industry. The comparative British and German figures of investment show a large gap to be closed by this country.

The study bears out the contention that if the European free trade area comes into being British goods will not prove uncompetitive in European markets, nor will this country be flooded by cheap imports—though during the initial period imports may rise more than exports. The fact is often overlooked that it will take some 12 to 15 years for all tariffs and quantitative trade restrictions to be abolished.

If the negotiations for the free trade area are wrecked and only the common market is established, there could not fail to be a reduced dynamic in the British economy; during the period 1951–1955, imports into Europe rose by 20 per cent., while those into the Commonwealth rose by only 2 per cent. Isolated from wider participation in European trade, the progress of the British economy would be impeded. Protectionism—and we have had a quarter of a century of it—is no longer an acceptable social-economic philosophy of the mid-century.

Many businessmen's chief cause of anxiety about the free trade area is centred upon the likely distortions it will bring. If, points out the study, on account of the dislocation, the sales of some concerns or industries suffer directly, there will be some offset in larger domestic sales due to the generally more rapid growth of the British economy. Indeed, the likely expansion of the economies of all the participating countries is the balancing factor which will ensure that in an economically united Europe most of us will live rather better than hitherto. Those who, even so, will be hit will still have enough time to repair their economic status by greater efficiency or by concentration on the production of profitable lines.

It is no mere speculation, either, that the emerging European trading pattern is likely to favour the larger businesses—the Fates, as well as trading opportunities, are on the side of the big battalions. The industrial history of the past decade has shown that larger concerns are the most successful exporters. Further amalgamations in many industries, as well as a rationalisation of production in many more, are foreshadowed.

The study examines the outlook for sections of British industry responsible for some 85 per cent. of the net output of all manufacturing activity. The industries are grouped into five sections—into those (*a*) definitely gaining, (*b*) probably gaining, (*c*) definitely losing, (*d*) probably losing and (*e*) least affected.

In group (*a*) there are the following industries, in order of the estimated increase in output that will take place by 1970 if the free trade area comes into being: motor vehicles, chemicals, wool, electrical engineering, general engineering, rubber manufactures, steel, hosiery and clothing. In group (*b*) fall the following industries, given in no particular order: non-ferrous metals, metal manufactures, aircraft, shipbuilding, oil refinery, building materials, glass, scientific instruments and sports goods. Industries in group (*c*) are cotton, rayon, paper, leather, and watches and clocks. Those in group (*d*) are china, footwear and toys. In group (*e*) are railway engineering, jute manufactures and furniture.

If the study has any fault at all, it is that for the more sophisticated analyst there are insufficient supporting calculations to show how firmly based are some of the prognostications: this omission is most apparent when the compilers assess future increments in the gross national product of the various European countries. Clearly business executives who are energetic enough to face the full challenge and to seize the full opportunities of the free trade area will have to study their problems for every country in much greater detail. The book provides them with an authoritative primer for the purpose, as well as promising to dispel, among a wider audience, some misconceptions about the effects of current European economic developments.

* *Britain and Europe*. The Economist Intelligence Unit, price 15s. net.

Accountant at Large

The Bonny Bonny Banks

IN JANUARY THE banks produce their figures with a speed that all accountants must admire; in February come their balance sheets, their meetings and their chairmen's statements, these last to receive a flattering volume of attention from the Press.

Banks and banking are always in the news. In this last year we had first a preview of what electronics might do to banking, magnetic tape and all. Then we had the Cheques Act, and column upon column, article upon article, have been written about the general abolition of endorsements effected by it. We have had Bank Rate, too, with even more public commentary; experts have told us all about it, and others, not so expert, have joined in, while the man on the Turnham Green omnibus or Manor House tube train, not understanding much about it anyhow, observes with cynicism that even the experts do not speak with one voice on the technicalities. And then we had the thousands and thousands of words of evidence at the Tribunal set up to discover whether news of the seven per cent. Bank Rate had "leaked" before the official dead-line of 11.45 a.m. on Thursday, September 19—and all the back-stage gossip, the large-scale stock deals, the cloak-and-dagger stuff of the City of London that went to make light reading to oust even the Independent Television Authority in the villas of Turnham Green and Manor House.

But even when Bank Rate stays still and endorsements still stay the banks have their good share of publicity—more, certainly, than accountants or accountancy can ever hope to receive. Bank charges are always good for a brisk run in the correspondence columns, bank salaries appear to be a matter of close interest to others besides bank clerks or directors, bank novelties (from American correspondents) are always acceptable space fillers.

Not that the banks seek publicity; rather do they try to hide their light under a bushel. When they are attacked, which is often, they seldom reply ("They say! what say they? Let them say!"). When they are praised, which is seldom, no pleased flush appears on their corporate faces. They advertise, nowadays, but in no fashion to challenge comparison with the detergent or the petrol campaigns. Only one bank has appeared, briefly, on commercial television. Only two banks have formally appointed Public Relations Officers. The banks conduct themselves soberly and with dignity. In the words of the Public Orator at Oxford, when an honorary degree was recently conferred on a vice-chairman of one of the "Big Five," they "try gracefully to moderate our confusion when we blush to find our trifling accounts 'in the red'!"—"*nam si subductae ratiunculae summa noblis minio notatur quod suo nos inficiat rubore, quam comiter hi efficiunt ne propalam neve plus iusto erubescamus!*" It is part of the austere traditions of British banking that quiet strength, evidenced in the astronomical figures of the balance sheets, is better publicity than any of the tricks of the advertising trade.

We have built up in this country a credit structure in which a wholly token currency works efficiently and cheques are generally accepted from strangers as equivalent to cash. In part this is the result of a peculiar credit-worthiness in ourselves; but in part it is the result of a monolithically sound banking framework. The recent and notorious closing of a very small savings bank—not, be it noted, a credit-granting and cheque-facilities bank—as an exception from the long and uninterrupted history of stability only reinforces the monolith.

There are other monolithic structures in the financial community, notably insurance, but they largely avoid the limelight. Insurance, it is true, came once so near the threat of nationalisation as to be provoked into a joint advertising campaign, but even then there was little enough news value in it. Nationalisation of the banks has been discussed *ad nauseam* in some circles, but now that even there nationalisation is no longer accepted as a good in itself there is little enough real fear of it in banking. Certainly, the sight of five banks, or even six, in one small market town may still cause an eyebrow or two to rise. Some process of rationalisation may well prove desirable, perhaps to be hastened by electronic progress, but there is no substantial evidence that we are seriously overbanked.

The fact that there is a bank on every important street corner is part of the reason for sustained public interest in the banks. Bank premises themselves get into the papers; so do smash and grab attacks outside, and once in a way inside, them. Are the banks too conservative, in comparison with their American counterparts? Would it be a good thing to have free gifts to new customers, and exhibitions of modern art in bank lobbies, over here too? Should bank charges be on a published scale as they are in America and also largely in Scotland? Should bank clerks be able to become bank directors? What form of staff representation should the banks have?

Occasionally we come across the sentence: "Money was scarce in Lombard Street yesterday." That, of course, is banking in the economists' higher, more abstract, certainly more remote sense. But if the economists would explain very simply—and very often—just what it means, many more men in the street might be able to get a clearer picture of both kinds of banking. Does "man in the street" here include "accountant"? That is for each accountant to decide for himself. Can you (for one) answer the question "What is money?" so comprehensively as to explain exactly what happens when it is scarce in Lombard Street?

A Marriage Will Take Place on . . .

FROM THE FIRST part of this article,* it will be apparent that the maximum relief for income tax purposes is obtained when the wife receives the personal relief of £140 and the reduced rate reliefs on £360 against her income before marriage and her husband is able to claim additional personal relief of £140 and reduced rate relief on £360 against her earned income after marriage. But, if surtax is payable, then the saving in income tax must be set off against the surtax that may be payable on their combined incomes but not on their separate incomes.

Again, from the first part of the article it is obvious that the smallest amount of income tax is paid if the marriage is celebrated on October 5. For surtax purposes, however, the position is now to be considered if the wedding day is July 5, 1957, October 5, 1957, January 5, 1958, or April 5, 1958.

The relevant amendments outlined in the Budget of last year must first be given. For 1957/58 earned income relief will be at the rate of two-ninths of the earned income up to an income of £4,005; thence at the rate of one-ninth up to an earned income of £9,945. Furthermore, in computing the income on which surtax is payable, the increase of £100 in the personal relief given to a married man is deductible.

Bill receives a salary of £1,980 per annum and Ann a salary of £1,350 per annum. If the marriage was celebrated on July 5, 1957, the tax position would be (all abbreviations being as in the first part of the article):

	Husband		*Wife's Memo R.R.R.*		*Wife before marriage*	
	£	£	£	£	£	£
Bill, salary ..		1,980				
Ann, salary ..		1,013		1,013		337
		2,993				
Less: E.I.R. ..	665		225		75	
P.R. ..	240		–		140	
A.P.R. ..	140	1,045	140	365	–	215
		1,948		648		122

Income tax borne:									
H	*W*		£	s.	d.		£	s.	d.
£360+£360=£720 at R.R.			186	0	0	£60 at 2/3	6	15	0
940+288=£1,228 at 8/6			521	18	0	£62 at 4/9	14	14	6
			707	18	0		21	9	6

Surtax borne: Income		£2,993
Less: Marriage relief		100
		£2,893
£500 at 2/–		£50 0 0
393 at 2/6		49 2 6
		£99 2 6

If the marriage was celebrated on October 5, 1957:

	Husband		*Wife's Memo R.R.R.*		*Wife before marriage*	
	£	£	£	£	£	£
Bill, salary		1,980				
Ann, salary		675		675		675
		2,655				
Less: E.I.R. ..	590		150		150	
P.R. ..	240		–		140	
A.P.R. ..	140	970	140	290	–	290
		1,685		385		385

Income tax borne:									
H	*W*		£	s.	d.		£	s.	d.
£360+£360=£720 at R.R.			186	0	0	£360 at R.R.	93	0	0
940+	25= 965 at 8/6		410	2	6	25 at 8/6	10	12	6
			596	2	6		103	12	6

Surtax borne: Income		£2,655
Less: Marriage relief		100
		2,555
£500 at 2/–		50 0 0
55 at 2/6		6 17 6
		£56 17 6

If the wedding was on January 5, 1958:

	Husband		*Wife's Memo R.R.R.*		*Wife before marriage*	
	£	£	£	£	£	£
Bill, salary ..		1,980				
Ann, salary ..		337		337		1,013
		2,317				
Less: E.I.R. ..	515		75		225	
P.R. ..	240		–		140	
A.P.R. ..	140	895	140	215	–	365
		1,422		122		648

Income tax borne:									
H	*W*		£	s.	d.		£	s.	d.
£60+60=		£120 at 2/3	13	10	0	£60 at 2/3	6	15	0
150+62=		212 at 4/9	50	7	0	150 at 4/9	35	12	6
150	=	150 at 6/9	50	12	6	150 at 6/9	50	12	6
940	=	940 at 8/6	399	10	0	288 at 8/6	122	8	0
			513	19	6		215	8	0

* The first part of the article appeared in ACCOUNTANCY for December, 1957, pages 523-5.

Surtax borne: Income..	£2,317
Less: Marriage relief	100
	2,217
£217 at 2/–	£21 14 0

Finally, if the marriage was on April 5, 1958:

	Husband		*Wife before marriage*	
	£	£	£	£
Bill, salary		1,980		
Ann, salary				1,350
Less: E.I.R.	440		300	
P.R.	240	680	140	440
		1,300		910
£360 at R.R.	93 0 0		£360 at R.R.	93 0 0
940 at 8/6	399 10 0		550 at 8/6	233 15 0
	492 10 0			326 15 0

No surtax payable.

A comparison of the tax positions is given below.

Thus, although no surtax is payable if the marriage takes place on April 5, 1958, the wedding should be on January 5, 1958, as the saving in income tax by claiming duplicate reduced rate relief and additional personal relief exceeds the surtax payable on that income, viz.:

	£ s. d.
A.P.R. of £140 at 8/6 ..	59 10 0
R.R.R. of 60 at 6/3 ..	18 15 0
62 at 3/9 ..	11 12 6
	89 17 6
Less: Surtax	21 14 0
£819 5 0 — £751 1 6 =	£68 3 6

Although October 5, 1957, remains the best day for income tax purposes, compared with January 5, 1958, the additional surtax payable exceeds the extra income tax reliefs, viz.:

		£ s. d.
Additional surtax £56 17 6 — £21 14 0 =		35 3 6
Less: Extra reduced rate reliefs:		
£(150 — 62) 88 at 3/9	£16 10 0	
150 at 1/9	13 2 6	
		29 12 6
£756 12 6 — £751 1 6 =		£5 11 0

It is apparent, therefore, that with combined incomes of under £4,000, before deciding the date of the marriage Bill and Ann must compare the surtax payable with the relief from income tax on claiming additional personal relief and reduced rate relief on Ann's income after marriage. Furthermore, if by marrying on a particular date she would not receive the maximum reduced rate relief against her post-marriage income, a computation must be made similar to that above comparing the position at October 5, 1957, and January 5, 1958.

Date of Marriage	*Wife before marriage*	*Husband*	*Total Income Tax*	*Surtax*	*Total Taxation*
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
July 5, 1957	21 9 6	707 18 0	729 7 6	99 2 6	828 10 0
October 5, 1957	103 12 6	596 2 6	699 15 0	56 17 6	756 12 6
January 5, 1958	215 8 0	513 19 6	729 7 6	21 14 0	751 1 6
April 5, 1958	326 15 0	492 10 0	819 5 0	– – –	819 5 0

Revocable Settlements— A Loophole

SETTLEMENTS OF DIFFERENT types, suited to particular needs, are nowadays a familiar means of minimising taxation. But that is not to say that the settlements are without dangers which, from time to time, surprise the wary, no less than the unwary. Such dangers are often brought to notice by fresh legislation or decision of the courts. Sometimes, however, the converse holds, and a new decision reveals a loophole in a statute which may benefit the taxpayer considerably—so long as it lasts! Such a loophole exists in Section 404 (2) of the Income Tax Act, 1952, as was recently shown by the House of Lords in *Saunders* v. *C.I.R.* [1957] 3 All E.R. 43 and T.R. 233. A detailed report of the case and of the related case *Countess of Kenmare* v. *C.I.R.* [1957] All E.R. 33 and T.R. 223 is on pages 24–27 of this issue of ACCOUNTANCY.

It is widely appreciated that income-producing property can be settled so that the income from it becomes the income of a beneficiary who pays a lower rate of income tax or surtax than the settlor. By Section 397 of the Income Tax Act, 1952, however, the income of a settlement made in favour of an infant unmarried child of the settlor is deemed to be the settlor's income for tax purposes unless it was made prior to April 22, 1936, and was then irrevocable.

Accumulation Trusts

Under an accumulation settlement, however, an infant child of the settlor may be a beneficiary, since Section 397 of the 1952 Act does not apply to income accumulated under an irrevocable settlement of property. If the income is accumulated during the child's minority the settlor may save surtax on such income; but if any income or capital is applied for the child's benefit before the age of 21, equivalent amounts have to be brought into the computation of the surtax income of the parent. The child, himself, on attaining his majority, may recover tax under Section 228 of the 1952 Act, based on the reliefs and allowances to which he would have been entitled, year by year, had he a vested interest in such income at that time. A disadvantage of this type of settlement is that the income may fall to be treated as the settlor's income by Section 398, 399, or 405 of the 1952 Act if the settlor, or the settlor's wife or husband, has any interest under the settlement.

Discretionary Trusts

Under the type of discretionary settlement frequently adopted, the settlor transfers the settled property to trustees, usually his accountant and solicitor, to hold upon trust for the maximum period allowed by the rule against perpetuities. (For the settlor or his wife to be a trustee is dangerous from the taxation standpoint.) During the trust period the trustees must distribute the income of the settlement to such one or more of the persons named as income beneficiaries as they, in their discretion, think fit. The income beneficiaries normally include the settlor's wife, children and remoter issue. If the settlor's family is not large, other relatives are often added, as estate duty repercussions may arise if the beneficial interest falls to a single person.

A power is given to the trustees to pay out at any time all or any part of the capital of the settlement to any one or more of a class of capital beneficiaries. These beneficiaries are usually the settlor's children or remoter issue, together with any widow that the settlor may leave, but *not* the settlor's wife. The purpose of this power is primarily to provide a method by which the settlement can be brought to an end before the end of the perpetuity period. At the end of the perpetuity period the capital remaining subject to the settlement is divided between the settlor's issue.

Director-controlled Companies

The owner of a family business who converts that business into a company expects to save surtax at the expense of a less onerous charge to profits tax. If he is prepared to go further and divest himself, in favour of his family, of a considerable part of his interest in the company which is to take over his business, he can secure other major savings in taxation. An accumulation or discretionary settlement, or a combination of both, provides the means to this end.

In a discretionary trust, as no individual beneficiary is entitled to any part of the income of the settlement until the trustees exercise their discretion, the Inland Revenue take the view that, so long as the beneficial interest does not fall to a single person, they cannot in pursuance of a surtax direction apportion the income of the company attributable to the shares held in the settlement to any beneficiary; and, unless the income of the company can be apportioned to an individual, no liability to surtax can arise. In view of the recent withdrawal of the Chancellor's "umbrella" here is an important consideration.

Similarly with an accumulation settlement; as the infants are only *contingently* entitled to the trust income, they cannot be made liable to surtax in respect of such income, nor can a liability to surtax be created by the Inland Revenue making surtax directions on the company and apportioning the income of the company through the trustees to the beneficiaries. Moreover, if the majority of the Ordinary shares in a controlled company are held by trustees who are not directors of the company on one or other of the trusts referred to, the company will not be director-controlled for profits tax purposes, and if director control is removed, it becomes possible for the company to provide retirement pensions for the directors under Section 388 of the Income Tax Act, 1952.

A warning must, however, be sounded. The income of investment companies is permitted by Section 260 of the Income Tax Act, 1952, to be apportioned, not as under Section 248 according to the interests of the members in the income of the company, but according to the ability of persons who are not members, or members who have no "relevant interests" in the company (as defined in sub-Section (6) (*c*)), to secure the application of its income or assets for their benefit. The Section also applies to members who are able to secure the application of income or assets for their benefit to a greater extent than their relevant interests, and further enables apportionments to be made in certain circumstances to persons who are *likely* to be able to secure such benefits. The obtaining of a loan or any other temporary application of income or assets which is beneficial to a person may be evidence of ability to secure the application of a benefit within the meaning of the Section (*C.I.R.* v. *L.B.* (*Holdings*) Ltd., 1946, 28 T.C. 1; *Heddon Court House* v. *C.I.R.*, 1947, 28 T.C. 79). And so may control through another company and a *trust* (*Chamberlain* v. *C.I.R.*, 1945, 28 T.C. 88).

"Escape Clauses"

Settlements, being (*inter alia*) a form of device for tax avoidance, are always vulnerable to attack by future legislation; hence, it is usually considered prudent to include in the settlement an "escape clause" by which the trustees can, if necessary, determine the settlement and resettle or distribute the bulk of the trust property, as they think fit. The best way of achieving this object has always, for a variety of reasons, been open to some doubt, but particularly having regard to the provisions of Section 404 (2) of the Income Tax Act, 1952 (formerly Section 38 (2) of the Finance Act, 1938) relating to revocable settlements.

Powers of Revocation

Section 404 (2) of the 1952 Act provides that if and so long as the terms of any settlement are such that:

(*a*) any person has or may have the power to revoke or otherwise determine the settlement or any provision thereof; and

(*b*) if the power is exercised, the settlor or his wife will, or may, become beneficially entitled to the settled property or income, or any part thereof,

then the corresponding income is to be treated as that of the settlor.

If the power of revocation is exercisable within six years of the time when the particular property first becomes comprised in the settlement the sub-Section applies immediately, but if the power is not exercisable within that time it applies only as from the date on which the power becomes exercisable. The power of revocation or determination, however, must be found in the terms of the settlement, and must not arise from some circumstance independent of it (see *C.I.R.* v. *Wolfson*, 1949, 31 T.C. 141).

Recent Decisions of House of Lords

The two important decisions recently given by the House of Lords and noted at the outset of this article were on the construction of Section 38 (2) of the Finance Act, 1938 from which Section 404 (2) of the Income Tax Act, 1952, is derived.

In *Countess of Kenmare* v. *C.I.R.* the taxpayer, who was not ordinarily resident in the United Kingdom, executed a settlement whereby United Kingdom securities to the value of some £700,000 were transferred to Bermudan trustees on a discretionary trust to pay the income of the trust fund to the taxpayer for life, and to hold the capital and income after her death on trust for her issue. The trustees were empowered at any time to declare that any part of the trust fund (not exceeding £60,000 in any period of three years) should thenceforth be held in trust for the taxpayer absolutely, whereupon the trusts relating to that part of the trust fund would determine, and that part would be transferred by the trustees to the settlor absolutely.

At the time of making the settlement the taxpayer was fifty years of age, so that the time when the whole of the trust fund might be held in trust for her absolutely would come when she was between eighty and ninety years old. The settlor was assessed to surtax under Section 38 (2) of the Finance Act, 1938, in respect of her income under the settlement. It was held (1) that any settlement wherever made, and whatever foreign element might be imported by the residence of the settlor or the trustees or the forum of administration, might be caught by the sub-Section if the income arose in the United Kingdom; and (2) that the powers given to the trustees might enable them by successive withdrawals to exhaust the trust fund in the settlor's lifetime and thus determine the settlement; accordingly the assessment was rightly made.

Lord Reid said there must be a *real* possibility of there being power (under the terms of the settlement) to release the whole fund before the death of the settlor. That did not mean there must be a probability in the sense that the event was more likely to happen than not, but there must be more than a negligible possibility.

In *Saunders* v. *C.I.R.* the trustees of a settlement were empowered during an "appointed period" to apply any part of the capital of the trust funds for the benefit of a specified class including the settlor's wife, with a limitation that the capital of the trust funds should not be reduced below £100. After the appointed period the funds remaining were to be held on trust for the settlor's next-of-kin. Originally the sum settled was £100, but later it was increased to £25,100. Again, the settlor was assessed under Section 38 (2) of the Act of 1938 on the income from the property comprised in the settlement. It was held that the settlor was not chargeable to surtax in respect of such income, because a power to dispose of nearly the whole of the capital, subject to the limitation, was not a power to bring the settlement or any provision of it to an end, and thus was not a power "to revoke or otherwise determine the settlement or any provision thereof." A partial revocation did not constitute a "revocation," nor did a partial determination constitute a "determination." All that would happen by the partial withdrawal of the trust funds would be to diminish the *benefit* enjoyed by the beneficiaries under the trust. A diminution of a beneficial interest, however, could not constitute a revocation or determination of the benefit.

The effect of the two decisions is that an unqualified power to appoint capital to the spouse of the settlor will amount to a power to revoke or determine the settlement, so that all income arising under the settlement, no matter to whom it is payable by the terms of the settlement, will for tax purposes by treated as the income of the settlement. The *Saunders* case shows that by the simple expedient of retaining a not negligible sum under the terms of the settlement this result can easily be avoided—at least until legislation is passed!

Taxation Notes

The Cash Basis

The evidence on the cash basis given recently by the Chairman of the Board of Inland Revenue and reviewed in the last issue of ACCOUNTANCY (pages 502–3) makes it opportune to examine the basis further.

Normally, business profits must be arrived at according to normal accounting methods, i.e. the earnings basis is required to be used. Outstanding debtors and creditors and the value of work-in-progress must be brought into account.

In some circumstances, however, the cash basis is used, whereby the profit is the excess of the cash received in the period in respect of earnings over the cash actually paid in the period in respect of allowable expenses.

There is a third method which is sounder than the cash basis where that basis is allowable—namely, to treat as profit the excess of cash received on revenue account over the expenditure appropriate to the period whether actually paid or not. This is sounder because the expenses will have to be paid whether the earnings are received or not.

Barristers and, it is understood, certain medical men cannot sue for their fees (though, as we noted last month, the Comptroller and Auditor-General argues that barristers can recover fees through instructing solicitors, who are able to sue) and the cash basis is therefore regarded as sanctified by long usage, even if there were doubt about its having legal sanction.

Many other professional men use the third method. After the first few years, provided bills are rendered regularly this method and the cash basis will give roughly the same results, except where the business is expanding or shrinking.

In many instances, work-in-progress has no value in any event unless the work is completed, and its evaluation is therefore impossible—for example, the work put in by an estate agent in trying to sell a house for a customer.

The Revenue normally insist on the first three years being based on earnings and nowadays, as a condition of changing to a cash basis, require an undertaking that if and when the business is discontinued or sold bills will be rendered promptly so as to bring into the last period as much as possible of the value of work done. On such a change, the cash received must all be brought in notwithstanding that some of it represents the collection of debts already included in the former earnings basis (*C.I.R.* v. *Morrison*, 1932, 17 T.C. 325). Under the earnings basis, the opening debtors had been excluded, the closing ones brought in. It would not have been a comparison of like with like to omit the opening and closing debtors under the cash basis.

Similarly, if the business is discontinued, the Revenue cannot assess debts collected after cessation; they were fully covered by the assessments made during the lifetime of the business, whichever basis of assessment was employed (*Bennet* v. *Ogston*, 1930, 15 T.C., page 378). If an agreement had been made with the Revenue, as a condition of going on a cash basis, to bring in such receipts, the position would be different.

It seems, however, from *Rankine* v. *C.I.R.* (1952, 32 T.C. 520) that the Revenue can raise the assessment for the last year of a business on an earnings basis provided it was done in the first assessment for that year. The Court refused to allow an additional assessment for the purpose; there could therefore be no revision of the accounting method for years of assessment prior to the ultimate one. It remains doubtful if the change could be made in the assessment of those professional men who cannot sue for their fees. The *Rankine* case followed the principle in *Stainer's Exors.* v. *Purchase* [1952] A.C. 280 (H.L.), where receipts due to the estate of a deceased actor from films in which he had acted were held to arise from the exercise of the deceased's profession under Case II, Schedule D. Such receipts receivable after death could not be taxed under any provision of the Acts. The *Stainer's Exors.* case has been followed in *Carson* v. *Cheyney's Exors.* [1957] T.R. 261 (C.A.) in respect of the royalties arising after death to the estate of a deceased author.

Back Duty Penalties

The Report of the Comptroller and Auditor General on the Appropriation Accounts of the Revenue Department for 1956/57 (House of Commons Paper No. 15, price 2s. 6d. net) gives some interesting figures of back duty recoveries (excluding minor settlements made by local Inspectors and relating to interest allowances, etc., under which in 1956/57 £940,000 was collected). The figures are:—

Year ended March 31	*Number of cases*	*Total charges raised* £	*Penalties included* £
1957	15,511	22,549,246	9,426,295
1956	16,116	22,661,950	8,490,973
1955	19,663	20,587,922	8,420,419
1954	18,144	20,381,870	7,555,342

Taxation subjects dealt with in the Professional Note pages this month are: Double Estate Duty on Near-Simultaneous Deaths; Taxation of Insurance Companies; Rating of Plant and Machinery; Industrial Re-Rating.

Penalties Relating to Estate Duty

The penalties provided by the Acts relating to estate duty are as follows:

(a) *For failure to take out probate or letters of administration.*

If any person takes possession of and in any way administers any part of the personal estate and effects of a deceased person without obtaining probate or letters of administration of the estate and effects within six months after the death (or within two months after the termination of any suit or dispute respecting the will or the right to letters of administration which has not been ended within four months of the death) (i.e. an executor *de son tort*), he is to forfeit £100 plus 10 per cent. on the amount of the stamp duty payable on the probate or letters (Stamp Act, 1815, Section 37).

A person who ought to obtain a grant but neglects to do so within the above period(s) is liable to pay double the amount of duty payable (Customs and Inland Revenue Act, 1881, Section 40).

(b) *For failure to supply information or accounts.*

The Finance Act, 1894, Section 8 (6), provides the alternative penalties of £100 or double the duty remaining unpaid for which any person is accountable if the person in question fails to give information or render accounts regarding the property when called upon to do so; the Commissioners of Inland Revenue or the Court may reduce any such penalty.

If a company or any of its officers fails to supply to the Commissioners when so required information, accounts, etc., for the purposes of Section 46 or Section 55, Finance Act, 1940, alternative penalties are the same as in the preceding paragraph of this note with the substitution of £500 for £100 (Finance Act, 1940, Section 57).

Failure to notify the Commissioners within one month of the death that the deceased made a transfer of property to and received benefits from a controlled company renders the company or any officer liable to a penalty not exceeding £500.

(c) *For knowingly making a false statement or representation for the purpose of obtaining any allowance, reduction, rebate or repayment of duty.*

The penalty on summary conviction is imprisonment for a term not exceeding six months with hard labour (Finance (1909–10) Act, 1910, Section 94).

The Commissioners and the Treasury have a general power to mitigate penalties.

In the report referred to in the preceding note, the Comptroller and Auditor-General says that future practice would proceed on the basis that an accountable person who deliberately omits property from accounts annexed to the Inland Revenue affidavit is liable to penalties (sub-Sections 8 (3), 8 (4) and 8 (6) of the Finance Act, 1894). Proceedings for the recovery of penalties must be commenced within two years after the penalty is incurred (Inland Revenue Regulation Act, 1890, Section 22). Many deliberate omissions of property from accounts had been considered by the Inland Revenue, but in no case had it been decided to claim penalties. In some instances the imposition of penalties was barred by lapse of time under Section 22 of the 1890 Act; in others, the wording of the forms of the Inland Revenue affidavit made the legal position doubtful. New forms have been issued since last August, but legislation is necessary to make the Board's power to impose penalties fully effective.

The New Child Reliefs

As a person becomes of full age in the eyes of the law from the first moment of the day preceding the twenty-first anniversary of his birth, it seems that a similar rule ought to apply to the eleventh and sixteenth birthdays. Section 12 (3), Finance Act, 1957, says that the appropriate deduction for the child is to vary according to the age of the child at the commencement of the year of assessment. For a child shown to have been over the age of sixteen, the allowance is £150; for a child over eleven, £125. Any younger child attracts £100. A child born on April 6, 1946, would appear to be eleven on April 5, 1957, and therefore attract the higher allowance for 1957/58. What about a child born on April 7, 1947? It seems that he becomes twelve at the commencement of April 6, 1957, and is therefor over eleven on that date.

Capital Allowances—How Made

For many purposes it is important to bear in mind the method laid down in the Acts for giving relief for capital allowances. Some allowances are given primarily against specific types of income, others by deduction in assessments, but none in computing profits. The following summary distinguishes them.

(1) *Industrial buildings allowances*

If the person incurring the expenditure is trading, the allowances are deducted in the assessment. Any excess of allowances over the assessment is carried forward and added to the next allowances. A landlord who incurs the expenditure gets the allowance primarily against the Schedule A assessment on the premises, any excess rent assessment thereon and any balancing charge on the sale of premises. (A balancing charge is assessed on a landlord under Case VI of Schedule D, on a trader as an addition to his profits). Any excess of allowances over the income mentioned can be carried forward against future income of that type. Alternatively, if a claim is made within a year after the end of the year of assessment, the excess can be set against the landlord's other income of the year.

(2) *Machinery and plant (wear and tear) allowances*

These allowances are given to traders in their assessments in the same way as in (1) above. Under Schedule E the allowances come off the assessment on the source for which the plant, etc., is in use. A lessor bearing the burden of wear and tear has the allowance made in each year of assessment at the end of which the plant, etc., is in use against the Case VI assessment on the rent for the plant. If the lessee has to maintain the plant, etc., and hand it back in good condition, he will get annual allowances on so much of the capital cost of the plant as the assessing or appeal Commissioners think fit. These allowances will be against his

business (or Schedule E) assessment as first mentioned above.

(3) *Allowances in connection with mines, oil wells, etc.*
These allowances are made in the assessment on the trade as in (1) above.

(4) *Agricultural buildings allowances*
These allowances are given primarily against agricultural and forestry income, with the right to claim to have any excess allowances set against other income. If a claim is not made (the time limit is one year) the excess goes forward against agricultural and forestry income only.

(5) *Patents—Annual allowances*
These allowances are given to traders as deductions in the assessment as in (1). A non-trader gets the allowances primarily against patent income and can either carry any excess allowances forward against future patent income only or claim (within one year) to set them against other income of the year of claim.

(6) *Allowances for capital expenditure on scientific research*
These allowances are given in the trader's assessment as in (1) above.

The distinction between those allowances available in assessments and those to be given primarily against other income is important when the question of using capital allowances to augment or create a loss is in point as only the former allowances are available for this purpose. The distinction is also important where in a partnership agreement the partners share (say) equally except in a loss from a share in which one or more partners is relieved by the partnership agreement. In such circumstances the agricultural buildings allowance or other allowances to be set primarily against certain income will be divided in the profit sharing method and not go totally to the partners bearing the loss.

Recent Tax Cases

By W. B. COWCHER, O.B.E., B.LITT.

Income Tax and Surtax

(1) *Countess of Kenmare* v. *C.I.R.* (House of Lords, July 25, 1957, T.R. 215).

Settlement—Settlor neither resident nor ordinarily resident in the United Kingdom—Settlement made abroad—Trustees non-resident—Trust fund invested in United Kingdom—Power to trustees to transfer capital to settlor—Possible exhaustion of trust fund by such transfers—Whether settlement or any parts of it subject to United Kingdom law—Whether power to revoke or otherwise determine settlement or any provision thereof—Finance Act, 1922, Section 20 (1) (a)—Finance Act, 1938, Sections 38 (2), 41 (4), Schedule III.

(2) *Saunders* v. *C.I.R.* (House of Lords, July 25, 1957, T.R. 223).

Settlement—Initial transfer of £100 to trustees—Power to transfer to trustees further sums—£25,000 so transferred—Discretionary power to trustees to release sums from trust fund for benefit of special class including settlor's wife but trust fund not to be reduced below £100—Whether power to determine provision of settlement—Finance Act, 1938, Section 38.

These two cases were of exceptional interest and importance. **Countess of Kenmare *v.* C.I.R.** was the subject of a full note in our issue of November, 1955 (page 427), and a briefer one in November, 1956 (page 454). The first Court decision in the Countess's case was given by Danckwerts, J., and in Mr. Saunders's case by Wynn-Parry, J., but both in the Court of Appeal and in the House of Lords the two cases were heard by the same judges and the decisions given on the same day. Both settlements were intended to evade the mischief of the provisions of the Finance Act, 1938. Whilst, however, the question whether it was caught by Section 38 (2) of that Act was common to both settlements and was the only issue in the *Saunders* case, in the *Countess of Kenmare* case there was a second major issue—whether the settlement was within the ambit of United Kingdom surtax at all. Its main features were set out at some length in our 1955 note; but a brief summary is necessary. The trust fund consisted of United Kingdom investments said to be worth about £700,000 in September, 1947, when the settlement was purported to be made in Bermuda. The local law was to govern the trust but there was what Danckwerts, J., termed "a very peculiar provision," whereby the trustees could by declaration change the *lex fori*. In other words, if the fiscal climate of Bermuda should become unhealthy for such settlements the legal location of the trust could be changed. The Countess was neither resident nor ordinarily resident in the United Kingdom during the material period and the same held good for the trustees. In these circumstances, and by reference to the terms of the settlement, the Special Commissioners had held that Lady Kenmare was not liable to surtax in respect of the United Kingdom income of the Bermudan trust, and had stated that they were assisted in their decision by a consideration of *Perry* v. *Astor* (1935, A.C. 398; 14 A.T.C. 22; 19 T.C. 255). They, therefore, did not consider it necessary to come to any decision whether the settlement was revocable within Section 38 (2).

When the case came before Danckwerts, J., both sides asked him to deal with both issues. Dealing with the argument that, in the circumstances related above, the income of the trust was beyond the taxing powers of the United Kingdom Legislature he made the following striking declaration:

> I have to deal with the legislation of the country of which this court is a court, and I have to deal with the legislation of a Parliament which, within the United

> Kingdom, is not, as I understand the matter, subject to any limitations of any kind whatever. There is no theory of unconstitutionality, such as may be found in countries which have a written constitution. The power of Parliament is, at any rate as to property in this country, supreme.

Referring to *Perry* v. *Astor*, the question there was one of interpreting Section 20 of the Finance Act, 1922, a section replaced by Section 38 of the 1938 Act with wording revised in view of the House of Lords decision in the case. In particular, the provisions of Section 38 (7) were to apply to "any settlement whenever made and whether before or after the passing of this Act," whilst by Section 41 (4) "income arising under a settlement" was in his opinion so defined as to include income of non-residents. He had earlier called attention to the dictum of Lord Russell of Killowen in the *Astor* case that the limits to taxation inherent in all our legislation were that the income must be either "(1) income which is here; or (2) income of a person resident here." His rejection of the contentions of the respondent and his reasons therefor were unanimously approved both in the Court of Appeal and in the House of Lords.

By the Third Schedule to the Finance Act, 1938, a settlor caught by Section 38 was given a right of recovery from the trustees, but this would be unenforceable against foreign trustees. This fact was strongly relied on for the Countess as showing that Section 38 was not applicable to a foreign trust; but the argument found no favour with any of the judges. In the Court of Appeal, Singleton, L.J., was of opinion that, as the assets of the trust fund were here, enforcement could be effected by procedure outlined by him, and Romer, L.J., "was by no means satisfied" that this was not the case. All three judges held that whilst Parliament gave a right it did not guarantee its effectiveness; and, in the House of Lords, Viscount Simonds expressed full agreement with the Court of Appeal, pointing out, as did Lord Reid, that the possible but unlikely difficulty suggested might arise with foreign trustees whether the settlor was or was not resident in the United Kingdom. In fine, all their Lordships were of opinion that the point failed. It clearly had no factual merit, apart entirely from legal merit.

What may be called the *ultra vires* argument having been rejected, the question was whether the Countess's settlement was within the mischief of Section 38 (2) of the Finance Act, 1938. This sub-Section, in so far as material, reads as follows:

> If and so long as the *terms* of any settlement are such that—
>
> (*a*) any person has or may have power . . . to revoke or otherwise determine the settlement or any *provision* thereof; and
>
> (*b*) in the event of the exercise of the power the settlor or the wife or husband of the settlor will or *may* become beneficially entitled to the whole or any part of the property comprised in the settlement or of the income arising from the whole or any part of the property so comprised . . .

and it goes on to say that the whole income of the settlement or of the corresponding part is to be deemed the income of the settlor and of no other person. The underlying object of most settlements of the kind under consideration is that the settlor shall retain all or most of the benefits attaching to absolute ownership of the property comprised in the trust, despite having divested himself by the deed; and this settlement was no exception. The trustees had absolute discretion to pay the whole or part of the trust income to the Countess during her life, and by Clause 5 of the settlement deed they could pay out to her the trust fund at the maximum rate of £60,000 (Bermudan) every three years (with a carry forward). At the date of the settlement the Countess was in her "early fifties" (Romer, L.J.), and, although variations in the United Kingdom–Bermuda exchange rate and fluctuations in the value of the trust fund would affect the matter, it was possible, if the settlor lived so long and the trustees exercised their powers under Clause 5 to the full, that the whole of the trust fund would be exhausted in her lifetime. In this event, the trusts in Clause 3 for the benefit of the children of the settlor would never come into play.

There was considerable discussion during the case on the meaning of the word "provision" in Section 38 (2) (*a*), although the point was not of such decisive importance as it was found to be in the *Saunders* case. In *Berkeley* v. *Berkeley* (1946, A.C. 555; 25 A.T.C. 209) it was pointed out in the speeches delivered in the House of Lords that, to quote from that of Viscount Simonds:

> (provision) is a word of diverse meanings which slide easily into each other. It may mean a clause or proviso, a defined part of a written instrument. Or it may mean the result ensuing from that which is provided by a written instrument or part of it.

Danckwerts, J., did not deal with the point in his judgment, but held that the power to transfer the whole of the trust fund to the settlor was a power to revoke. In the Court of Appeal, Singleton, L.J., held that the word "provision" in Section 38 (1) (*a*) clearly meant a clause or part of a clause in a settlement and that it should be given the same meaning. The disappearance of the trust fund would, he held, be a "determination" and not a "revocation," because there would be nothing left to which the trust in Clause 3 could apply. Morris, L.J., in a judgment of exceptional clarity, held that if the word "provision" meant what was provided then the power given to the trustees to transfer the trust fund to the settlor was one to determine a provision of the settlement. If, on the other hand, "provision" meant a clause then the complete withdrawal of the trust fund would prevent the operation of Clause 3 and this, he held, would be a "determination" if Clause 3 was a "provision." In either event the settlement was caught by Section 38 (2). He held, nevertheless, that "provision" there meant a "clause or term or part, as opposed to the sense of denoting what is provided." Romer, L.J., came to the same general conclusion. The power in Clause 5, if not a power to determine the settlement as a whole, which he thought it probably was, was in his judgment at least a power to determine Clause 3. In the House of Lords, the decision of the Court of Appeal was unanimously affirmed. Viscount Simonds, referring to the permitted successive withdrawals from the trust fund, said he did not see how it could be said that the day might not arrive when, the settlor still living, the trustees would have the power to withdraw the last pound of the trust fund and place it at her disposal. He added significantly: "For all I know that is what may have been intended or at least hoped for."

The trustees in their discretionary exercise of their powers had placed the whole of the income of the trust fund at the Countess's disposal and Lord Reid in his speech referred to the fact that the income did not belong to her when it accrued to the trustees but came to her by virtue of her rights under the settlement. As a non-resident receiving money under a foreign settlement she could not be assessed unless caught by the statutory provisions of Section 38 (2). Referring to the possible exhaustion of the trust fund during the life of the settlor, he said that the *de*

minimis principle must be applied in construing the word "may" in the sub-Section and although he did not think that there must be a probability, he thought there must be more than a negligible possibility and he did not think that in the case it was negligible. The release of the whole of the trust fund was in his opinion a power to "determine" the settlement although not a power to "revoke" it in the sense of cancelling or annulling it. Lord Cohen, dealing with the possibility of the trust fund becoming exhausted during the life of the settlor, said he adopted what had been said by Morris, L.J., in the Court of Appeal and. although there was no certainty that it would happen, it was a power to "determine" or put an end to the settlement. He said he expressed no opinion as to what the position would be in a similar case where owing to the age of the settlor it would be impossible or at least highly improbable that the funds would ever be exhausted by the exercise of the "alleged power of revocation." Lord Keith agreed with the result but made two reservations, one of which he was to develop in the *Saunders* case. Lord Somervell agreed with the reasons given by Viscount Simonds.

Saunders *v.* C.I.R. was the subject of extended notes in our issues of December, 1955 (page 466), and November, 1956 (page 454). Despite the disparity between the amounts of tax immediately involved, the case proved in the end to be the more important of the two cases under consideration. The scheme of tax avoidance lacked the obviously costly elaboration of the one devised in vain for the Countess of Kenmare and was remarkable for ingenious simplicity. The facts in the heading to this note need little by way of supplement. On July, 1951, the settlor had transferred to the trustees of a settlement, executed on the same day, the sum of £100 which sum was, together with any additions he was empowered to make, to be held by them for the benefit of a specified class which included the settlor's wife. By Clause 1 of the deed, the trustees were to invest the £100 and any further sums which the settlor might add. On August 13, 1951, less than three weeks after the original £100 had been paid to the trustees, the settlor had added the sum of £25,000, which had been invested in Ordinary shares in H. A. Saunders Ltd. The £100 had remained uninvested. In the year 1951/52 the gross income of the trust fund was £4,166 and an additional assessment to surtax including this income had been made on the settlor. By Clause 3 of the settlement the trustees were to apply the income of the trust funds less any portion thereof appointed under Clause 4. By the latter clause, the trustees during the life of the settlor, but subject to his written consent, might pay out capital of the trust fund for the benefit of all or any one or more of the specified class but—and this was the vital part of the whole scheme—

> Provided always that during the life of the settlor any exercise by the trustees . . . of the power in this clause . . . shall be subject to the limitation that the capital of the trust funds remaining . . . immediately after such exercise shall be of a value of not less than £100.

As a result, of the total trust funds of £25,100 all save £100 could be withdrawn and paid to the settlor's wife, and as a consequence, a much discussed question in the case was whether the word "provision" in Section 38 (2) (*a*) had the first or second of the meanings stated by Viscount Simonds and the other law lords in *Berkeley* v. *Berkeley*, although Viscount Simonds himself, Lord Reid and Romer, L.J., all held that it was not necessary to decide whether it had the first or second of the two meanings, whether a clause of the deed or the result.

The Special Commissioners had found in favour of the Crown, holding that in its context the word "provision" was wide enough or capable of bearing the second meaning. Wynn-Parry, J., had upheld their decision, holding that the words in Section 38 (2) (*a*) "or otherwise determine" would have been unnecessary after "revoke" if "provision" meant a clause or proviso, a defined part of a written instrument, "revoke" being from the conveyancer's point of view the natural word to use whether the revocation was of the whole or specific parts of the settlement. The word "determine" seemed to him to be an apt word to use where the power contemplated the bringing to an end of a benefit.

In the Court of Appeal his decision had been unanimously reversed. Singleton, L.J., held that the word "provision" ought to be given the same meaning throughout Section 38; and, as he was satisfied that the word "provision" in Section 38 (1) (*a*) and Section 38 (1) (*b*) meant a clause, it should be given the same meaning in Section 38 (2) (*a*). Revocation of a settlement or a provision thereof might be by a document in writing or, assuming the power, by taking away the whole of the trust fund available for a particular provision. This, he said, would be a "determination." The power to withdraw only a part was not a "determination" but something envisaged by the terms of the settlement; and he held there was no distinction in principle between a power to pay out only £100 so as not to reduce the fund below £25,000 and the power in the case. Morris, L.J., said that during the settlor's lifetime the power was certainly not one either to revoke or determine the settlement and, if the word "provision" related to what was provided, then on the Crown's interpretation any withdrawal of capital was a determination *pro tanto* of the "provision" and the "provision" must be the income upon whatever funds remained. He said that the Crown's claim also failed if, as he held, the word "provision" meant a clause or part of the deed. Romer, L.J., also held that the draftsman of the settlement had successfully evaded Section 38 (2). No question of revocation arose and no part of the income of the fund could be treated as the income of the settlor unless there was a power to "determine", and this he held not to be the case seeing that in the settlor's lifetime £100 would always remain. He considered it unnecessary to decide whether in Section 38 (2) (*a*) "provision" meant clause or result. Under Clause 3 of the settlement the "specified class" were only given the income from the undrawn capital and the withdrawals under Clause 4 only quantified the beneficial interest; during the settlor's lifetime the trustees had no power either to determine the settlement or any clause thereof or any beneficial result.

In the House of Lords, there were considerable differences of opinion although the decision of the Court of Appeal was affirmed by a majority consisting of Viscount Simonds, Lords Reid and Cohen, Lords Keith and Somervell dissenting. Viscount Simonds, referring to his speech in *Berkeley* v. *Berkeley*, already mentioned, doubted whether in the present case the distinction between the two meanings of "provision" need be preserved. At the close of his speech he said that the question was whether the word "revoke" included partial revocation and the word "determine" included partial determination, and he held that they did not. He said he agreed with what Lord Reid had written on that part of the case. Lord Reid, in a closely-reasoned speech, said:

> I, therefore, adopt the simple explanation of this case that when part of the capital is paid away . . . the provisions of the settlement remain the same but their

value to the beneficiaries decreases. That would be so whether one takes the word "provision" to mean a part of the settlement or a right given by the settlement. If that be true, then nothing would be determined or brought to an end by paying away part of the trust fund and therefore there is no room for the application of Section 38 (2).

Lord Cohen said he agreed generally with Viscount Simonds and Reid, only differing from them in that he agreed with Singleton, L.J., that the word "provision" in the phrase "of any provision of the settlement" found at the ends of Section 38 (1) (*a*) and 38 (1) (*b*) must mean a clause and he saw no reason for giving a different meaning to "provision" in Section 38 (2). The short dissenting speeches of Lords Keith and Somervell differed in their separate approaches though they both held that the Crown's appeal should succeed.

The decision is a serious one from the point of view of the surtax authorities, because the successful scheme lends itself to something like mass production; and legislation will obviously be necessary.

Surtax

Company controlled by not more than five persons—Investment company—Undistributed income—Apportionment of actual income of company among members—Nationalisation of coal industry—Colliery business nationalised—Interim and revenue payments in respect of compensation — Whether payments assessable under Case III or Case IV of Schedule D.

The nature of the payments made in pursuance of the Acts dealing with the nationalisation of the colliery industry in respect of the unsettled compensation payable to the colliery proprietors was discussed at length in *C.I.R.* v. *Butterley Company Ltd.* (1956, 35 A.T.C. 66; 36 T.C. 411), noted in our issues of November, 1954, at page 429; August, 1955, at page 309 (a very full note); and September, 1956, at page 365. In view of the special and non-recurring nature of the problem it is not considered necessary to repeat here the complicated facts. In **C.I.R. v. Whitworth Park Coal Co. Ltd., C.I.R. v. Brancepith Coal Co. Ltd., C.I.R. v. Ramshaw Coal Co. Ltd** (Ch. July 31, 1957, T.R. 237), the issues were whether in computing the "actual income" of each of the respondent companies for the purposes of apportionment amongst the members under Section 21 of the Finance Act, 1922, the payments were to be regarded as taxable under Case III or under Case VI of Schedule D. If Case III were right it was admitted that they were, as the Crown claimed, assessable in the year of receipt. If Case VI, there was a further dispute whether the payments should be spread over the years or periods in respect of which they were paid, as claimed by the respondents, or, as was again claimed by the Crown, regarded as assessable for the years or periods of actual receipt. The Special Commissioners had decided both points in favour of the respondents but without giving any reasons, and Harman, J., reversed their decision. He held that all the payments made under the Acts of 1946 and 1949 were "other annual payments" within the charge under Case III, being made in respect of periods of a year and capable of recurrence. Other payments made, although described in the Act as additions to the compensation, were in his opinion "interest of money," being in fact interest on money compensation. Therefore, he said, the Crown succeeded on its primary contentions and it was unnecessary to consider the second issue. In his judgment, Harman, J., dealt with no less than seven contentions put forward by counsel for the respondents, demolishing them to his own satisfaction as if they were so many skittles.

Tax Cases—Advance Notes

HOUSE OF LORDS (Viscount Simonds, Lords Morton of Henryton, Tucker, Keith of Avonholm and Denning).
Evans Medical Supplies Ltd. v. Moriarty. December 4, 1957.

Their Lordships (Lord Morton dissenting in part and Lord Keith dissenting) dismissed the Crown's appeal and allowed the respondents' cross-appeal with costs.

The Court of Appeal had remitted the case to the Special Commissioners with the direction to find, in accordance with the judgments therein, which part of the sum of £100,000 paid by the Government of Burma under an agreement for the sale of "know-how" was attributable to the imparting of secret processes. Such part was to be capital, the remainder income. (See ACCOUNTANCY for May, 1957, page 221.)

The majority of their Lordships decided that the sum of £100,000 was not divisible and was not taxable as income from the respondents' trade.

Lord Denning doubted whether the Court of Appeal had power to remit the case for a further finding of fact on a new point of law not raised before. He said: "The general rule of every appellate court is not to allow a new point to be raised except on a question of law which no evidence could alter." This applied to a Case stated under the Income Tax Act, 1952, Section 64.

CHANCERY DIVISION (Upjohn, J.)
Gray & Randolph v. C.I.R. December 3, 1957.

The appellants appealed against an assessment of six declarations of trust dated March 25, 1955, to stamp duty as voluntary dispositions within Section 74 of the Finance (1909–10) Act, 1910.

H. made six settlements in 1949 and 1950. On February 1, 1955, he transferred 18,000 shares to the appellants (who were trustees of these settlements) as nominees. On February 18, H. orally and irrevocably directed the appellants to hold the shares on the trusts of the settlements. On March 25, the appellants executed the six declarations of trust. These were by deed and recited that the appellants had held since H.'s direction of February 18, and still held, the shares on the trusts of the settlements.

The appellants claimed that the beneficial interests in the shares passed by

virtue of the oral direction and that the deeds of March 25 were mere records of their previous passing and were not liable to *ad valorem* duty. The respondents argued that by reason of the Law of Property Act, 1925, Section 53 (1) (*c*), the oral direction was ineffective to pass the beneficial interests: they passed under the declarations of trust, which were accordingly liable to be stamped *ad valorem*.

His Lordship held that the direction to trustees by H. was not within the sub-Section, as it operated by way of trust and not assignment. Accordingly such an oral declaration was valid. Nothing was left to pass by the subsequent declarations of trust, which were, in consequence, not dutiable *ad valorem*.

Oughtred *v.* C.I.R. December 3, 1957.

On June 18, 1956, O. (a life tenant under a settlement of shares) orally agreed with P. (the remainderman) that P. would exchange his interest in remainder for other shares held by O. On June 26 a deed of transfer was executed, whereby the legal interest in the trustees was transferred to O. It was contended by the Commissioners that the oral agreement was ineffective by virtue of the Law of Property Act, 1925, Section 53 (1) (*c*) and that the declaration of trust acted as a conveyance on sale of the equitable interest in the shares and should be stamped *ad valorem* accordingly. (By the Stamp Act, 1891, the transaction of exchange is the same as a sale for money.)

It was held that, on the oral agreement, P. became a constructive trustee of his equitable interest in the shares. By Section 53 (2) of the Law of Property Act, 1925, constructive trusts are not affected by Section 53 (1) (*c*). Accordingly the agreement was valid; the beneficial interest passed under it and *ad valorem* duty was not payable on the declaration of trust.

Lindsay Fynn *v.* C.I.R. December 11, 1957.

F., an English resident, transferred investments to C. Ltd., a company incorporated in Ireland, with a view to the avoidance of U.K. tax. In return for the transferred investments F. received shares in C. Ltd. He settled these upon his children. Up to the date of execution of this settlement, Section 412 of the Income Tax Act, 1952, applied to the income of the company. C. Ltd. bought investments, partly from F. and partly on the market. The market purchases were financed by an overdraft, the security for which was a charge on the company's investments, including the investments originally transferred by F.

In January, 1952, F. lent £12,000 to C. Ltd. which was used to reduce its overdraft. In March, 1954, F. released C. Ltd. from its obligation to repay him the £12,000 and this sum was added to the amount settled upon his children.

The Commissioners of Inland Revenue claimed that the income of C. Ltd. for 1951/52 and 1952/53 was deemed to be the income of F. by virtue of Income Tax Act, 1952, Section 412.

The Special Commissioners held that the charging by C. Ltd. of the investments originally transferred was an "associated operation." F. became entitled to receive a capital sum when he lent the £12,000 to the company. Payment of this was connected with the "associated operation." Accordingly the income of C. Ltd. was deemed to be that of F. for the material years.

His Lordship allowed the taxpayer's appeal, reversing the decision of the Special Commissioners.

Racecourse Betting Control Board *v.* Young (H.M.I.T.). December 6, 1957.

The Board carried on trade as a totalisator operator. By Section 3 of the Racecourse Betting Act, 1928, the Board was to establish a totalisator fund, into which a percentage of the amounts staked was to be paid. The fund was to be applied (subject to payment thereout of taxes and certain expenses) in accordance with a scheme prepared by the Board and approved by the Home Secretary, for purposes conducive to the improvement of breeds of horses or the sport of horse-racing.

During the periods in question, the Board made payments to racecourses for augmenting prize money, to owners and trainers towards the cost of transporting horses to meetings and to the Jockey Club, National Hunt Committee, Pony Turf Club and various point-to-point meetings towards administrative expenses. In addition, the Board made payments of £1 to owners for each horse run in a race. These last payments were not approved by the Home Secretary.

His Lordship, allowing the appeal of the Crown from the decision of the Special Commissioners, held that these sums were not deductible from the profits of trade under Income Tax Act, 1952, Section 137 (*a*). The fund had to be applied in accordance with Section 3 (6) of the Racecourse Betting Act, 1928. This application was not in the course of the earning of the profits of the trade but subsequently.

The Special Commissioners had held that sums paid from the fund to racecourses for improvements of a capital nature to the tracks, etc., were not admissible deductions. The Board's cross-appeal from this part of their decision was dismissed.

Western United Investment Co. Ltd. *v.* C.I.R. December 20, 1957.

By an agreement in writing V. agreed to sell to the appellant company certain shares for £5½ million. The purchase money was to be paid without interest by 125 yearly instalments of £44,000 each. Should the company default in paying the instalments the whole of the balance was to be immediately payable.

On the day of execution of the agreement, a transfer of the shares was executed, which was expressed to be made in consideration of the sum of £5½ million payable in accordance with the agreement.

The appellant company contended that the agreement was "a separate instrument made . . . for securing the payments" under a "conveyance on sale chargeable with *ad valorem* duty in respect of any periodical payments" within the Stamp Act, 1891, Section 56 (4) and liable to duty of only 10s. The Commissioners claimed that *ad valorem* duty of 5s. per £100 was payable as "bond, covenant" duty. On this point, Upjohn, J., decided in favour of the Crown.

The second contention of the appellant company was that the consideration for the sale consisted of money payable periodically for a definite period exceeding twenty years. The *ad valorem* duty to be charged on the transfer was therefore to be on the total amount which "will or may, according to the terms of sale, be payable during the period of twenty years next after the day of the date of the instrument" (Stamp Act, 1891, Section 56 (2)). The total amount on which duty could be charged was therefore 20× £44,000=£880,000. The Commissioners contended that regard must be had to the default clause in the agreement, which was incorporated in the transfer, under which the whole of the £5½ million might become payable within the twenty years. On this point, Upjohn, J., decided in favour of the appellant company.

Bennett *v.* Rowse (H.M.I.T.). December 17, 1957.

B. bought two aeroplanes and from August, 1948, carried on the trade of hiring them out to F. Ltd. On March 12,

1950, one of the aeroplanes was destroyed in a crash. On March 13, B. wrote to F. Ltd., stating that, as from March 12, 1950, he ceased to hire the two aircraft to the company.

B. had received capital allowances in respect of the aeroplane which was destroyed. He received insurance moneys for its loss. Consequently, he was assessed to income tax under Schedule D, Case I, in respect of a balancing charge arising under Income Tax Act, 1945, Section 17.

B. appealed against the assessment on the ground that the trade of hiring aeroplanes was discontinued at the moment of the crash. As the "plant or machinery" was therefore not destroyed before the discontinuance, no balancing charge could be made under Section 17.

The Special Commissioners held that the trade was discontinued after the aeroplane was destroyed, and confirmed the assessment. His Lordship held that this was a question of fact. As there was evidence of this and the Special Commissioners had not misdirected themselves in law, he dismissed B.'s appeal.

Bradbury (H.M.I.T.) *v.* Arnold. December 17, 1957.

Arnold owned most of the share capital of Tom Arnold Ltd., a company producing ice shows. M. wished to acquire a half share in the profits of a particular show. In 1947, M. paid £9,000 to Arnold and £1,000 to Tom Arnold Ltd. This was in pursuance of agreements entered into between M. and Arnold and M. and Tom Arnold Ltd., the terms of which were contained in letters. It was contended by the Crown that the payment to Arnold of £9,000 was for his services in introducing M. to the company and procuring it to give him such an interest and that it (the £9,000) was taxable under Schedule D, Case VI.

His Lordship said that the case turned entirely on its own facts. The result depended on the effect of the contracts. He regarded the contracts as part of one transaction. Arnold had not rendered M. services. He dismissed the Crown's appeal.

Hawes v. Gardiner (H.M.I.T.) December 18, 1957.

The appellant for several years prior to 1945 bred greyhounds for coursing as a hobby. Puppies unsuitable for breeding or coursing he destroyed or gave away. From about 1945, he started to sell greyhound puppies, as there was a good market for them. In 1947 he became a farmer on his own account (previously he had been employed by a farmer) but continued his greyhound activities, aided by his wife and a few part-time helpers.

The appellant derived a large profit from his activities from 1945 until 1950, when he ceased to breed greyhounds. It was found by the General Commissioners that, although the profits were fortuitous and the appellant regarded his activities as a hobby still, he had from 1945 carried on a trade, the profits of which were assessable under Schedule D, Case I.

Upjohn, J., dismissed the taxpayer's appeal.

Parway Estates Ltd. *v.* C.I.R. December 13, 1957.

The appellant company owned all the issued share capital of P. Ltd. In January, 1956, the appellant company entered into an agreement with Peck under which it was to sell to Peck the share capital of P. Ltd. Under the agreement, before completion of the sale of shares, the appellant company had to procure the transfer of certain property from P. Ltd. to itself. On February 28, 1956, the property was transferred from P .Ltd. to the appellant company by instruments of transfer. On the following day the sale of the shares to Peck was completed.

The appellant company claimed relief from stamp duty on the instruments of transfer by virtue of Finance Act, 1930, Section 42. This Section affords relief from transfer stamp duty in case of transfer of property as between associated companies. For it to apply, *inter alia*, the appellant company would have had to own *beneficially* the shares in P. Ltd. The appellant company argued that the beneficial interest in the shares remained with it despite the contract for sale to Peck, as this was conditional and specific performance of the contract would not be awarded before the fulfilment of the condition.

His Lordship dismissed the appeal of the company.

Ostime (H.M.I.T.) *v.* Australian Mutual Provident Society. December 20, 1957.

The Society carries on mutual life assurance business in Australia and the United Kingdom. The United Kingdom business is carried on through a permanent London branch. The Society is resident in Australia and not resident in the United Kingdom.

The Society appealed before Special Commissioners against assessments to income tax under Rule 3, Case III, Schedule D (Section 430, Income Tax Act, 1952, for the two latest years) for the years 1947/48 to 1953/54. Assessments under Rule 3 are calculated by reference to a proportion of the investment income of the life assurance fund (see the decision of the House of Lords in an earlier tax appeal of the Society, 28 T.C. 388).

It was contended by the Society that the Australian Double Taxation Relief Order (S.R.O., 1947, No. 806) Articles III (2) and (3) conflicted with Rule 3, Case III and that by Finance (No. 2) Act, 1945, Section 51 (1) (now Income Tax Act, 1952, Section 347) the former should prevail. The profits charged as a result of the double taxation agreement were industrial or commercial profits. These were profits of the trade assessable under Schedule D, Case I and, the Society carrying on mutual trading, were nil.

It was contended by the Crown that the double taxation agreement did not charge to tax but at the most limited the charge imposed by Rule 3 of Case III. Industrial or commercial profits as defined by Article II (1) (i) were merely the profits of an Australian life assurance enterprise. These were still to be assessed on the basis laid down in Rule 3, Case III.

The Special Commissioners decided in favour of the taxpayer. Upjohn, J., upheld their decision.

Jennings *v.* Kinder (H.M.I.T.). Hochstrasser (H.M.I.T.) *v.* Mayes. December 20, 1957.

The taxpayers in these two cases are employed by I.C.I. Ltd. Under agreements separate from their contracts of service the company agreed that if, as a consequence of change of locality of their employment with the company, they should sell their houses and suffer a loss thereby, the company would reimburse them.

Sums paid as such reimbursements were assessed on the employees under Schedule E. The Crown contended that the sums were comprehended in the phrase "perquisites or profits whatsoever." In the first case, as the employee received emoluments of more than £2,000, the Crown also contended in the alternative that Section 160 of Income Tax Act, 1952, applied to the payment.

Upjohn, J., held that the sums received were not taxable under Schedule E, as they were not profits from the employment. In the first case, the amount received was not an expense under Section 160.

The Month in the City

Friendless Equities

After the recovery point registered on November 20, there was a virtually continuous decline in industrial Ordinary shares lasting for some four weeks and amounting to some 2½ per cent. Not all shares fell and there were short periods of rally, but the general picture was one of distrust of the future. The fall would certainly have been heavier but for some surprisingly good results announced during the period—particularly those of the steel industry, whose equity holders are at last reaping the reward of patience in higher dividends. The payments are no doubt justified and there is reason to suppose that other steel companies will follow the example, but the effect on share prices, although favourable, was short-lived: any rise seems to bring selling from those who are principally preoccupied with the risk of re-nationalisation of the steel industry. It would be possible to compile a long list of reasons why the outlook should be considered sombre in the short run, reasons ranging from Mr. Eisenhower's illness to a vague feeling of unease created by the inquiry into the alleged Bank Rate leak. But the general fact is that a somewhat belated belief in the benefits of liquidity still holds the field and may well do so until the wage demands have been disposed of. At present there seems to be a certain hesitation among trades unions to be the first to test official hardihood in this matter. The longer the diffidence persists, the better, but also the longer will uncertainty hang over the market. Meanwhile it is to be noted that the Funds had shared, in modest degree, the weakness of equities but that, as was the case a month ago, other fixed interest securities have continued to appreciate. The bulk of the improvement has occurred in Preference shares, which at end November gave an average yield, according to the figures of the Institute of Actuaries, below that on industrial debentures, and less than a point above that on Old Consols. The picture of changes on the month from November 29 to December 31, as shown by the indices of the *Financial Times*, is as follows: Government securities up from 78.06 to 79.29; fixed interest up from 87.06 to 87.62; industrial Ordinary down from 169.5 to 165.3; and gold mines up from 72.2 to 74.8.

The B.P. Offer

A factor overhanging the market for the early part of the period was the offer by *British Petroleum* of £41 million 6 per cent. convertible debenture stock 1976–80 at 99, with payments spread between December 11, 1957, and May 1, 1958. Conversion terms are that during the month of July in 1958 every £50 of the stock can be converted into 10 Ordinary shares—equivalent to a price of 99s.—in 1959 into the same number and in 1960 into eight shares—equivalent to a price of 123s. 9d. per share. Equity holders in the company and in Burmah Oil were given special forms, applications on which were to receive preferential treatment, while special consideration was promised to applications from Debenture and Preference stock holders of the company, also made on special forms. Although the price of shares had dropped to 93s. 9d. on the eve of the issue, both the running yield and the conversion rights were considered highly attractive. The issue was in fact more than eighteen times covered and was heavily stagged, the total of application money being some £765 million, an all-time record. There were applications numbering some 250,000, of which 180,000 received some allotment, in very many cases only £50. There had been much talk before the issue about whether the British Government would take up anything in respect of its holding of some 55 per cent. of the equity, or Burmah Oil of its 26 per cent. Neither did, but the Burmah share seems to have gone to equity holders in Burmah Oil and the Government share was split up between the public and additional allotments to B.P. equity holders. In the event the equity holders received (*a*) an allotment based on their holdings before the offer, and (*b*) a further allotment graded according to the amount applied for. Members of the public got also this second type of allotment, subject to a ballot for all applicants for £2,000 stock or less—the prize being £50 stock on each successful number—in which they had a two to five chance of success. Holders of prior charges in B.P. got slightly better terms than the general public and were spared the ballot, all applicants for £2,000 or less receiving £50 stock. Despite good work, the issuing house failed to get all allotments in the hands of applicants before the opening of business, then mostly done at 6 to 6½ premium. The price closed at the lower of these two figures and by the end of the month was 5 premium.

Back to Trustee Stocks

No sooner were the B.P. applications in than the terms were announced for the issue of £5 million 6 per cent. stock of the City and County of Newcastle upon Tyne at 99½, finally repayable on February 1, 1976, with an option to redeem during the three preceding years. This gave a gross running yield of £6 0s. 7d. and a net redemption yield, at the standard rate of income tax, of £3 9s. 9d. per cent. With calls spread out to end-February and an initial payment of a full six months' interest on August 1, the terms appeared very attractive and were made the more so by the rally in the Funds. The issue was heavily over-subscribed, applications reaching £140 million. There was a ballot on applications for £1,000 and less and other allotments were small. Business started at 1¼ premium and at the year end the stock stood at 1⅝ premium.

More Oil Issues

There soon followed the announcement that the very large *Shell Transport and Trading* issue would be announced at mid-January, for taking up a month later, as a rights issue to Ordinary shareholders of more shares, of an amount so far unspecified, of the same class. About £4.5 million out of a total placed at between £40 and £55 million will be subscribed in the United States. Shortly after this *Royal Dutch* announced issues, estimated to yield between £75 and £94 million, of which only a modest proportion will fall to British holders.

Halifax Comes into Line

One of the last events of the year, other than the rise in the Funds and in sterling, was the decision of the *Halifax Building Society* to raise its rates to existing borrowers from the general level of 5¾ per cent. to 6 per cent. The decision to effect such a rise in rates was taken by most of the movement long ago but the Halifax, which abandoned membership of the Association about 15 months since, had until now decided to adhere to the old rate. The change, which applies to all old borrowers, is designed to come into force only at the beginning of April this year. While the general result will be a rise of only ¼ point in rates paid, it is understood that some mortgagors will have to pay up to a whole point more.

Points From Published Accounts

Thank Heavens for the 1948 Act!

The opportunity to examine accounts prepared outside the aegis of the Companies Act, 1948, is comparatively rare, but it seldom fails to stimulate appreciation of the high standard which the Act, despite its inevitable failings, has instilled into the accounts of companies registered in this country. The accounts of the *Indian Iron and Steel Company* provide just such an opportunity, and it is salutary in the extreme to look at a profit and loss account which must hold even the most experienced at bay in attempting to make a ready assessment of what the profit for the year really is. The word profit, as such, does not appear in the account and the presentation takes one back into the realms of a manufacturing account. The uninitiated will remark that the sales of semi-finished and finished products are up from £20,239,717 to £20,338,352 (the fact that these sterling figures are all conversions from the rupees in which the original accounts are couched does not help things) and that the balance carried into the appropriation account is up from £488,879 to £524,814. Then they might look in the directors' report and see a reference to the reduction in steel despatches during the year being "reflected in a reduction of the amount of profit shown." From then on it becomes a hard slog, adding and subtracting various reserves and exceptional items from the balance carried down, not to mention making the necessary adjustment between stock held at the beginning of the year and at the end, in order to arrive at what could be termed a reasonable assessment of the true net profit.

In contrast to the embarrassing detail of the profit and loss account, the balance sheet goes to the opposite extreme of stark austerity, current assets and similar sub-totals standing in at a single figure only. Seekers after more detailed information are referred to a copious notes section covering no less than eight pages of schedules, running the gamut of half the alphabet from "A" to "L". Also unfamiliar to British eyes (so far at all events!) is the appendix reproducing a letter from the Government of India pointing out why it cannot change its mind in refusing to allow the company to increase its dividend. Altogether the accounts make a very interesting study for any student of accounting.

A New Form of Appropriation Account

Goodwill is an old bone of contention in these notes, and it crops up again in the accounts of *Hazell Sun*, the printers. Here, the profit attributable to shareholders is struck after writing off £100,000 from goodwill. This is a sizeable amount, and the implication is that this item is to be regarded as a charge on the earnings of the business. In fact it is not so. The amount written off by the directors each year is entirely a matter for their discretion, and there is no obligation on the profits of the business to bear such a burden. Certainly it is regarded as prudent financial practice to eliminate goodwill from a balance sheet, but the place to do this is in the appropriation account. This, incidentally, has a novel layout in the accounts of Hazell Sun, as the following extract shows:

	£	£	£	£
AMOUNT WRITTEN OFF GOODWILL ..		100,000		100,000
		441,115		503,020
ATTRIBUTABLE TO MINORITY SHAREHOLDERS OF SUBSIDIARY COMPANY		88,746		109,944
ATTRIBUTABLE TO SHAREHOLDERS OF HAZELL SUN LIMITED (of which £115,923 (1956 £97,530) has been dealt with in the Holding Company's Accounts)		352,369		393,076
TRANSFERS TO REVENUE RESERVES—				
Fixed Assets Replacement (including £55,350 relief in respect of Investment Allowances)	144,927		145,738	
General	98,700		166,493	
	243,627		312,231	
UNAPPROPRIATED BALANCE	8,256		3,269	
		251,883		315,500
		100,486		77,576
DIVIDENDS (NET) FOR THE YEAR—				
Preference Shares	10,062		10,062	
Ordinary and Employees Shares—				
Interim of 5 per cent. Paid	37,676		18,754	
Final of 7 per cent. Proposed	52,748		48,760	
		£100,486		£77,576

Note. The last two columns, printed in blue ink in the original, refer to the previous year.

The approach seems to be putting the cart before the horse a little, since an "unappropriated balance" can be struck only after dividends have been paid, but it does make a quite neat presentation.

Sixteen Words for One

"Excess of consideration over book values of net assets of subsidiary companies at dates of acquisition" is an item appearing in the consolidated balance sheet of *British Chrome and Chemicals* (*Holdings*), and most people would have to read it more than once to be sure of knowing exactly what it means. Jargon and circumlocution is always to be deplored, and here sets a jarring note in an otherwise attractive layout. Why not describe the item for what it is—goodwill? Why, one also wonders, does this item not figure in the parent balance sheet? Is it included in the "investments, at cost" figure of £1,649,717 for the subsidiary company? The fact that only one subsidiary company, British Chrome and Chemicals, is cited in the report makes the jargon in the group balance sheet all the more untenable, implying, as it does, that there is more than one subsidiary under discussion. In fact, the other companies in the group are subsidiaries of the main operating company, which makes them sub-subsidiaries of the parent. A small point that can lead to endless confusion, and yet can be so easily clarified.

Mr. Mousley's Second Shot

In presenting the accounts of *Charles Winn* for the year ended July 31 last, Mr. N. K. Mousley has met many of the criticisms levelled, by us among others, at the accounts when they made their appearance last year in an extremely unconventional guise. But though the latest accounts are less unorthodox, they are still too far from accepted practice to receive widespread applause.

There are at stake both points of principle and matters of detail. In principle, we disagree with the presentation of the profit and loss account because it gives no clear indication of the net earning capacity of the business. Net earnings are the most significant figure in any set of accounts: it must stand out plainly, both for shareholders and for those others—employees, politicians and the rest—at whose edification Mr. Mousley is aiming in his redesigning of the accounts. Related to the failure to bring out the figure of net earnings is the description in the accounts of taxation on earnings as a "use" to which profits are put. It is nothing of the kind: if you earn a profit, then you incur, unavoidably, a liability to tax on that profit. What is left of the profits after they are taxed is what counts.

It is another error of principle to imply, by lumping together in the balance sheet all the capital, that the Preference shareholders have a right to participate in the assets of the business over and above the extent of their nominal capital subscribed. There must be drawn a clear distinction between "equity capital" and all forms of prior capital—the distinction that has, in fact, been made in respect of the "unsecured loan (subsidiary)" which stands under its own heading in these accounts. There certainly exist instances of Preference capital carrying rights equal to those of the Ordinary capital in a share-out of assets—but the balance sheet should make such a situation abundantly clear.

Surprisingly enough, these two errors of principle constitute virtually all that bears major criticism in these accounts. We say "surprisingly enough," for when one first opens the accounts they seem to be bristling with points for disagreement. Such is the power of prejudice or (more mildly) habit, and it is prejudice and habit as much as anything that any reformer has to overcome. Wisely, Mr. Mousley has decided to compromise between his more extremist views and what he has found to be acceptable to informed opinion, but he would have done even better to have brought in his changes by easy stages, instead of in two drastic reformulations.

It is doing a greater service to the laudable aims of Mr. Mousley if we comment only on the major issues of his presentation, rather than if we harp on detailed points of disagreement. Our main criticisms we have outlined above. Major matters on which we support Mr. Mousley are: the issuing, with the report, of a statement by the chairman explaining the accounts; the setting out, right at the beginning of the accounts, of salient figures about the business; the complete elimination of all reference to reserves. Reserves are at the centre of many misconceptions about financial practice, and if Mr. Mousley can merely attain uniformity in this one facet of a vast and tangled subject, he will be doing an immense service.

Different Year-Ends

The problem of accounting satisfactorily for a group of companies having a variety of closing dates for their accounts is not a new one, though it is expressed most forcibly in the accounts of *Manley and Regulus*. In this instance the year of the parent company ends on April 30, and that of the subsidiary companies on December 31. A note clarifies the position by pointing out that: "In order to avoid delay in the presentation of the accounts of the holding company, the directors have felt it desirable to consolidate separately the accounts of the subsidiary companies at December 31, 1956, instead of at April 30, 1957, the end of the financial year of the holding company." One could quibble with the terminology of "holding" here, since the parent company earns a trading surplus of £70,148 (the latest figure) on its own account, but the main field for comment must be in the difficulty which the lack of an overall consolidation throws up when it comes to assessing the aggregate earning capacity of the group. The issue would not be so fundamental if the parent company did not itself contribute such a large proportion of the trading profits. As it stands, the presentation is far from satisfactory, and one wonders what the objection is to altering either the year-end date of the parent company, or that of the subsidiaries, so that the complete consolidation can be made.

Cash Held for Debenture Holders

Many companies nowadays relegate details of the capital structure to the parent balance sheet only, in defiance of the generally accepted idea that the consolidated balance sheet is the one that really matters. The practice is an irritation to any reader wishing to refer to the capital structure. *United Drapery Stores* is not guilty of the failing, but the layout of the group balance sheet has made it desirable to drop a statement of the authorised capital—or so one would suppose until one sees this item in a parent balance sheet couched in exactly the same layout. Why the differentiation? These accounts, incidentally, use a sideways presentation, which is confusing when one is trying to look at the notes section, which is printed vertically, while comparing figures in the notes with those in the accounts.

A small, but interesting, point is the inclusion in the fixed assets total of cash held at the bank by trustees for the debenture stockholders. The item is met with comparatively rarely in company accounts, and the wide variety of treatment accorded to it whenever one does come across it leads to endless confusion about its true significance. The basic point to remember about all items connected with debentures is that the essential interest of a debenture holder in a business lies in capital assets —bricks and mortar and machines. Sometimes cash in the hands of trustees may be seen included in the current assets total, but to include it in that total puts a wrong slant on things, giving rise to the impression that such funds are for the free use of the business. In practice they are, but the underlying accounting principle must be that they are a priority item held either against the redemption of outstanding debentures, or awaiting reinvestment as part of the capital security of the debenture holders. To show such an item under a completely separate heading is a better solution than to include it with current assets, but the most logical approach is the one adopted by United Drapery, for if there were any intention of reinvesting these funds they must, by their very nature, be employed in acquiring an asset which will rank as part of the capital security of the debentures. We are, admittedly, simplifying a great deal the complications which can arise with debentures, but the point of principle demands emphasis.

There is now in publication a **Bibliographical Series on Computers,** providing a comprehensive index to literature, films, patents, conferences and lectures on computers. The publishers are the Bureau of Technical Information, 38 Farringdon Street, London, E.C.4, and the subscription is £6 6s. a year.

Readers' Points and Queries

Here is a forum in which our readers can make known, to the benefit of others, points of interest in accountancy, taxation and allied subjects, and can pose their queries. We usually reply editorially to queries submitted.

Readers are invited to send to the Editor (at 23 Essex Street, London, W.C.2) any points or queries for these columns.

Capital Profits for Distribution

Reader's Query.—A wholly-owned subsidiary company has recently made a capital profit on the sale of its lease, and proposes to make a distribution of this capital surplus to its parent company. The parent company in turn proposes to distribute a similar amount to its own shareholders as a distribution of capital profit. Is there any danger that the parent company will be attacked for a profits tax distribution charge? The Articles of Association of neither company precludes a distribution of this kind.

Reply.—For both companies the distribution will be treated as a gross relevant distribution and will, therefore, attract the higher rate of tax.

Arrears of Pension from Abroad

Reader's Query.—One of our clients, who came to this country in 1938 as a refugee from Germany and is now self-employed, has recently received some money from the Federal German Government as (*a*) compensation for loss of property in Germany and (*b*) the arrears of an annual pension of approximately £400 per annum from 1952 onwards.

Is the pension element of the moneys now being received taxable in the hands of our client?

Reply.—A pension from abroad is normally assessable under Case V of Schedule D. If the pension in question is in respect of a former German public servant now living in the United Kingdom, the charge will normally be on the remittance basis, which could give rise to hardship owing to the arrears being remitted in one year. On November 3, 1954, the Chancellor of the Exchequer stated in the House of Commons that he would seek approval for legislation to adjust the tax liability in such cases broadly so as to regard only the pension attributable to one year as remitted in the year of actual remittance and to treat the excess as though it had been taxable for the previous years to which it was attributable. Section 12(2), Finance Act, 1956, gives effect to this undertaking. Pending legislation it is understood that the Inland Revenue required payment of tax on the basis of the Chancellor's statement.

Maintenance Claims—Farmhouses

Reader's Query.—In the Taxation Note on "Maintenance Claims" in the November issue of ACCOUNTANCY, it is stated at the top of page 484 that in dealing with a maintenance relief claim on farming property "There is no restriction in respect of domestic use in the case of a farmhouse in such a claim—the whole expenditure is admissible."

We have one case in which the Inspector disallows two-thirds of the excess repairs on the farmhouse: that is, the claim in respect of the farmhouse is limited to two-thirds of the net annual value only.

This would seem to be contrary to what is stated in ACCOUNTANCY, and we shall be pleased to know the authority for that statement.

Reply.—The reply to this query is found in Section 101 of the Income Tax Act, 1952, which says that the owner of any land, including farmhouses, is entitled to maintenance thereon, and in Section 313. A farmhouse is not used partly for the purpose of husbandry and partly for other purposes: it is used only for husbandry, although part of the expenses in connection with it, such as the annual value, is disallowed because of domestic use. The Inspector should be referred to his Head Office.

Sale of Turf by a Farmer

Reader's Query.—I should be pleased if you could advise me of the correct treatment for income tax purposes of turf cut from one of his fields by a farmer. He has not entered into a transaction of this nature before, and it is most probable that this will be an isolated transaction; his main business is that of dairy farming.

I consider that a case could be made for regarding this as a capital transaction.

Reply.—In our opinion, the sale of turf by a farmer is part of the trade. It is really the sale of grass which takes some earth with it, not the sale of land as such. Some guidance can be found in Christie v. Davies *(1945) 26 T.C. 398,* C.I.R. v. Williamson Bros. *(1950) 31 T.C. 370.*

Retainable Charges and Capital Allowances

Reader's Query.—The following figures illustrate a situation which has arisen with a client company:

	£
Schedule A assessment	100
Building society interest (B.S.I.)	120
Schedule D assessment ..	1,000
Capital allowances ..	1,200
Retainable charges ..	150

The Revenue proposes to collect the tax on the retainable charges as follows:

	£
Covered by Schedule A ..	100
Section 170 assessment ..	50

We have submitted that the Schedule A assessment is covered by B.S.I. and the tax should be collected under Schedule D by restricting the capital allowances as follows:

	£
Schedule D assessments ..	1,000
Less Capital allowances ..	850
	£150

Capital allowances carried forward £350.

Reply.—It is not possible to use only part of the capital allowances. They must be used up to the full amount of the assessment (see Section 301, Income Tax Act, 1952). On the figures in question there must be a Section 170 assessment: we should have expected it to be on £150. Provided this is in respect of charges made out wholly and exclusively for the purposes of the trade, the amount of the assessment can be carried forward under Section 345. Moreover, any building society interest not allowed in the year can be carried forward as if it had been assessed under Section 170. See the extra-statutory concession No. 1 in operation at December 31, 1952, and still in operation. This particular concession was printed in an appendix to the 96th Report of the Commissioners of Inland Revenue for the year ended March 31, 1953, reproduced in ACCOUNTANCY *for March, 1954.*

Publications

The Law Relating to Bankruptcy, Deeds of Arrangement, Receiverships and Trusteeships. By O. Griffiths, M.A., LL.B. Sixth edition. Pp. xx+260. (*Textbooks, Ltd.:* 20s. net.)

IN VIEW OF the recently published report of the Board of Trade Committee on Bankruptcy and Deeds of Arrangement, it may at first sight seem somewhat surprising to find a new edition of this book in advance of the new Bankruptcy and Deeds of Arrangement Acts foreshadowed by the Committee's report.

A comparison of the new sixth edition with the fifth, which was published in 1953, discloses that it was necessary to add only four new cases to the law relating to valid petitions and six new cases on general bankruptcy points. A few older cases have also been added by way of more detailed explanation. There has been a tidying up of two chapters by the removal from their end and incorporation in their context of notes in the fifth edition.

However, the section on the trustee's duties under deeds of arrangement has been expanded in its introduction and a much improved approach to the subject is thus provided. Further, it may take quite a long while before the legislation is introduced. And, in any event, there is much to be said for legal textbooks which run out of print frequently so that new editions are required. Thoroughly up-to-date law is thus provided for the student and, indeed, for the practitioner also. It is unlikely that the more comprehensive works on the subject of bankruptcy would be published at intervals as frequent as the work now under review.

If only as a ready reference to recent legal decisions a work such as that of Mr. Griffiths would be an asset in the accountant's office. No doubt the book is also, as it deserves to be, a best seller among students.

One minor improvement would appear desirable. The important subject of fraudulent preference is dealt with mainly under the heading of acts of bankruptcy, although in its aspect as a preliminary to a petition it is rarely, if ever, met in practice. It would have been better placed in Chapter IX under the heading "debtor's property," where emphasis could have been given to the question of the onus of proof resting on the trustee.

Apart from bankruptcy and deeds of arrangement the book also gives, for the benefit of the student particularly, a very useful introduction to the subject of receiverships both under and outside of Court, as well as to the law relating to trusts and the trustees who have to administer them. D.M.

The Elements of Income Tax Law. By C. N. Beattie, LL.B., Barrister-at-Law. Third edition. Pp. xxviii+223. (*Stevens & Sons, Ltd.:* 27s. 6d. net.)

ALTHOUGH MR. BEATTIE makes it clear in his preface that he writes for the law student who hopes to become a lawyer in general practice, this admirable book contains much to interest accountants: from personal reliefs and the foreign element in taxation to trusts and deceased persons' estates; and from the three new cases of Schedule E and retirement benefits to the taxation problems of husbands and wives living together or apart. Mr. Beattie is clear and concise; he guides the reader skilfully through the maze of legislation and interprets the effect of the income tax law in a most readable and uncomplicated manner.

Two points of sequence may be noted: *before* explaining the general rules for first assessments on new businesses a special "taxmanship" point is made that in the first year it may be better to claim bank interest as a deduction in computing profits (rather than claim separate relief) so as to keep at as low a figure as possible profits that will form the measure for more than one tax year. Again, one wonders why the continuance basis now applied to company reconstructions without change of ownership should be singled out under "avoidance of tax." This provision, while it followed many reorganisations in the textile industry which generally resulted in substantial tax savings, is now absorbed into the rules that affect normal business transactions and "succession" would seem a more appropriate place for it. In the same "avoidance of tax" section (incidentally not included in the index reference) the author comments entertainingly on companies formed by television and film actors.

One likes Mr. Beattie's modesty in claiming that his book will not solve every income tax problem! But this well-designed book, fully referenced as it is to case and statute, provides a very useful and authoritative guide. The final impression remains of the remarkable clearness and conciseness of the text; Mr. Beattie has succeeded in reducing repellent tax legislation to a most readable narrative. L.A.H.

Office and Works Catering. By James G. New. Pp. 175. (*Business Publications Ltd. in association with B. T. Batsford Ltd.:* 18s. net.)

THE AUTHOR HAS produced a very useful addition to the limited number of books on industrial catering. It is a comprehensive volume packed with information on the many aspects of a service now regarded by the majority of firms as indispensable. Although it is basically a handbook for those engaged in catering, any executive concerned with canteen operation will find it full of practical advice.

A new problem—the feeding of office staffs in organisations with no factory—is carefully examined. Particular attention is given to the question of canteen siting, equipment, layout and staffing.

The various ways of operating a canteen, directly by the firm, by engaging contractors or by employing a works committee, are dealt with. The shortcomings and advantages of these methods are pointed out but no preference is indicated.

Of particular interest to the accountant are the chapters dealing with operating costs. The many ways in which losses can occur are detailed. The "hidden" costs of canteen management are examined, together with ways of controlling and checking them. In 1956 a survey of 200 firms revealed that the average subsidy per head per employee was £3 16s. 9d. a year. In many cases it was substantially more. As the author observes, "the essential requirement is that management has to maintain a close watch on the service."

A section has been included on the legal requirements of the canteen, some of which are not well-known. Eleven statutes are involved ranging from wages to copyright and even including the Cinematograph Act—for some canteens stage film performances.

The author has spent a lifetime in the catering industry and his inside knowledge is revealed on every page. Any accountant concerned with canteen operation or finance will find this book a most helpful guide. J.W.C.

Books Received

Rate Collection, 1956/57. Pp. 44. (*Institute of Municipal Treasurers and Accountants:* 5s. post free.)

Modern Company Law. By L. C. B. Gower, LL.M. Second edition. Pp. xlvii+631. (*Stevens & Sons Ltd.:* 50s. net.) The first edition was reviewed in ACCOUNTANCY for November, 1954, page 433.

Legal Notes

Company Law—
Restoration to Register

If a company fails to supply the Registrar of Companies with the information required by Sections 107, 124 and 200 of the Companies Act, 1948, two results may follow: the company itself may be struck off the register and proceedings for a "default fine" may be taken against any officer who knowingly and wilfully authorised or permitted the default. In **Re Moses & Cohen Ltd.** [1957] 1 W.L.R. 1007, a company had been struck off the register for its failure to make the necessary returns, and one of its directors then petitioned for its restoration to the register. Roxburgh, J., who heard the petition, was informed by counsel for the Board of Trade that no proceedings for default against any officer were contemplated. His Lordship then considered whether he had power to impose any penalty as a term of the company's restoration to the register. He came to the conclusion that he had no such power; he must either refuse restoration, a penalty which would in the case before him be unjust, or he must impose no penalty at all. He accordingly ordered the restoration of the company to the register, but he repeated a suggestion made by Buckley, L.J., in a similar case in 1905, that those who had the control of the amendment of company law should consider whether the law did not require alteration.

Contract and Tort
Tax Element in Damages

As reported and discussed in a Professional Note in our issue of last November (pages 457–8), there continue to be repercussions from the case of *British Transport Commission* v. *Gourley* (1956) A.C. 185, which decided that where a claim is made for damages, whether for personal injuries or for wrongful dismissal, the income tax and surtax liability of the plaintiff is an essential element in the calculation of damages.

In **Phipps v. Orthodox Unit Trusts Ltd.** [1957] 3 W.L.R. 856, the plaintiff claimed damages for wrongful dismissal and he was asked by the defendants to give particulars for each of the relevant years showing (*a*) the amount of his taxable income from every source, (*b*) his income tax and surtax assessments and (*c*) details of any facts which entitled him to tax allowances. The Court of Appeal held with some reluctance that the plaintiff was bound to give these particulars, but the full law report makes it clear that in the opinion of the Court in most cases particulars should be confined to the broad facts: if in every case elaborate particulars were sought of the plaintiff's tax position, the costs of litigation would be greatly increased.

Contract and Tort—
Unenforceability of Contract Contravening Foreign Law

S. agreed to sell to R. a consignment of jute, which was to be shipped from India to Genoa and thence to South Africa. The contract was governed by English law, under which the contract was lawful, but both parties were aware that under Indian law the export of jute to South Africa was prohibited. The sellers repudiated the contract and, when sued, raised the defence that the contract was unenforceable.

In **Regazzoni v. K. C. Sethia (1944) Ltd.** [1957] 3 W.L.R. 752, the House of Lords held that this was a good defence. The English courts would not enforce a revenue or penal law at the suit of a foreign State, but it did not follow from this that the court would enforce a contract which involved doing in a foreign and friendly State some act which violated the law of that State. The general principle, based on public policy and international comity, was that such a contract would not be enforced. It was possible that there might be exceptions to this general principle if the law violated was a revenue law or was contrary to "morals," but this case did not fall within any exception and the contract was unenforceable.

Miscellaneous—
Validity of General Charge on Income

By a deed of covenant C. covenanted with a trustee and a named beneficiary, for consideration, that he would make certain quarterly payments to the trustee during the life of the beneficiary. Clause 2 of the deed read: "The grantor hereby charges all his income and estate from whatsoever source the same may be derived and of whatsoever nature respectively with the payment to the trustee of the said payments." C. later entered into a mortgage deed with persons described as "the lenders" whereby he assigned to them the royalties that might accrue to him under various agreements. After C. had defaulted in making repayments under the mortgage deed, both the trustee and the lenders laid claim to royalties that were then due to C.

As the charge to the trustee was prior in time, he was *prima facie* entitled to the money. The lenders, however, argued in **Syrett v. Egerton** [1957] 1 W.L.R. 1130 that the charge to the trustee was too vague to be enforced and further that, as it purported to be a charge on the whole of C.'s estate, it was so wide that equity would not enforce it. The Divisional Court said that it was unnecessary to decide whether or not the charging of the whole of a man's property and estate was unenforceable: the charge in this case was divisible between a charge on income and a charge on "the estate," which in the context clearly meant capital. A man could charge all his future income without contravening public policy. When the charge came to be enforced the income would be identifiable, and consequently no question of vagueness would arise at the material time. Accordingly the charge granted to the trustee was valid and prevailed over the rights of the lenders.

Miscellaneous—
Whether Compensation is Capital or Income

In **Re Hasluck deceased** [1957] 1 W.L.R. 1135, land had been sold to a local authority at a price which was calculated in accordance with Section 17 of the Town and Country Planning Act, 1954. Under that Act, which even by the standards of modern legislation is complicated, one element in the price is "the unexpended balance of established development value." That balance is, broadly speaking, expressed to be eight-sevenths of the difference between the restricted and unrestricted value of the land on July 1, 1948, after allowance has been made for any development after that date. It is probable that the reason why Parliament prescribed this fraction of eight-sevenths was the desire to compensate the owner of the land for the fact that he would have received no interest for some seven years, but the Act nowhere says that this was the reason. Accordingly, when Wynn-Parry, J., was asked by the trustees of a will whether the additional one-seventh was to be treated as capital or income for the purpose of distribution among the beneficiaries, he held that he had no material on which he could split up the purchase price between capital and income, and that the whole should be treated as capital.

The Students' Columns

EXCESS RENTS ON LET PROPERTIES

IF A PROPERTY is let under a short lease, tax is paid on the net annual value, computed under the rules of Schedule A, and on the excess rent under Case VI of Schedule D. Section 172, Income Tax Act, 1952, defines a long lease as a lease granted for a term exceeding fifty years (unless the term of years is determinable by the death or marriage of any person). A short lease, therefore, is one whose term is fifty years or less or one determinable by death or marriage. It is further provided that if the lessor may determine the lease before the expiration of fifty years, the lease is a short lease. If the lessee can determine, but not the lessor in similar circumstances, the lease remains a long lease.

It is very important to realise that assessments in respect of excess rents are made under two separate sections of the Income Tax Act, 1952. Under Section 175, the immediate lessor is charged in respect of the rent received from property forming part of a single unit of assessment and his interest is not subject to any short lease which comprises also land not within that unit. The assessment is made on the excess of (*a*) over (*b*), where (*a*) is the rent received less any deductions appropriate to a gross annual value (G.A.V.) equal to that rent, and (*b*) is either the net annual value (N.A.V.) for the purposes of Schedule A, or the rent paid by the immediate lessor, whichever is the larger.

Example

Andrew has let his house, unfurnished, to William under a fifteen years' lease. The rent payable by William is £220 per annum, while the G.A.V. of the property is £180. The N.A.V. of the house will be £180 — (£20+$\frac{80}{6}$)=£146. The excess rent will be:

	£
Rent receivable	220
Less: Statutory repairs allowance based on the rent (S.R.A.) ..	40
	180
Less: N.A.V.	146
Excess rent	34

Section 175 refers to the immediate lessor. An immediate lessor means, in relation to any premises:

(*a*) if different parts of the premises are the subject of separate tenancies or separate occupations, a lessor of the whole or any part of the premises whose estate or interest extends to the entirety of the premises and is not subject, immediately or mediately, to a lease of the entirety thereof; and

(*b*) in any other case, a lessor whose immediate tenant is occupying or entitled to occupy the entirety of the premises:

Provided that if, in any case to which paragraph (*a*) of this definition applies, there is more than one lessor satisfying the conditions set out in that paragraph, that one of those lessors shall be deemed to be the immediate lessor whose estate or interest is not reversionary on the estate or interest of any of the others.

Example

Andrew lets his house to William. Andrew is the immediate lessor. But if William sub-lets to Percival, Andrew ceases to be the immediate lessor; instead, William ranks as such.

If, however, the rent is received by a person who is not the immediate lessor, the assessment on him is made on the excess of the rent received over the aggregate of the following items: the N.A.V. or rent paid, whichever is the greater; the tenant's rates (if any) borne by the landlord; the amount of any tenths, first fruits, duties, fees or presentations, etc., paid by the landlord (who in this case will be an ecclesiastic) and for which he obtains relief under Section 93, Income Tax Act, 1952; the relief given under Section 94 of that Act in respect of land tax, drainage rates and expenditure on sea-walls; five-sixths of the tithe annuity paid by the landlord; the cost of any services rendered or goods supplied other than for expenditure on maintenance and repairs under the terms of the lease for no separate consideration; and finally the average expenditure (based on the expenditure in the preceding five years) on maintenance, repairs, insurance and management of the property, for which relief has not been given under any other provisions of the Income Tax Act, 1952.

Example

During 1957/58 Andrew lets a property to William for £170 per annum. In the five years preceding 1957/58, Andrew expended £50 on the maintenance, repairs and insurance of the property. William sub-lets the property in 1957/58 to Percival for £220 per annum. William does not bear any cost of repairs. The G.A.V. of the property is £190. The excess rent assessment on William (the immediate lessor) is:

	£
Rent received	220
Less: S.R.A. based on rent ..	40
	180
Less: Rent paid	170
Assessment under Section 175 ..	10

The excess rent assessment on Andrew is:

	£
Rent received	170
Less: 1/5th of maintenance expenditure	10
	160
Less: N.A.V.	155
Assessment under Section 176 ..	5

If William agrees to bear the cost of repairs, etc., the assessments will be:

	£
Rent received	220
Less: S.R.A. based on rent ..	40
	180
Less: Rent paid	170
Assessment under Section 175 ..	10
On Andrew under Section 176:	
Rent received	170
Less: N.A.V.	155
	15

William would not be able in 1957/58 to make a maintenance claim under Section 101, as the relief already given (£40) exceeds the average of the preceding five years' expenditure (£10).

Rents under long leases suffer deduction of tax at source by the payer. There is no necessity, therefore, for any assessment to be made on the landlord.

JOINT VENTURE ACCOUNTS—II*

IN A RECENT examination question, A. and B. in joint venture sharing equally, executed the following transactions:

1. A. purchased 500 £1 shares in P. Ltd., at 16s. per share *ex div.* Expenses were £12.
2. B. purchased £300 Ordinary Stock in Q. Ltd., at £125. Expenses were £12.
3. A. purchased 1,200 5s. shares in R. Ltd., at 7s. 6d. per share. Expenses were £17.
4. B. purchased £500 stock (10s. units) in S. Ltd., at 12s. 6d. per unit. Expenses were £23.
5. R. Ltd. offered to shareholders at 7s. each, 3s. 6d. payable on application, one share for each share held. A. was allotted his full entitlement.
6. A. sold these shares in R. Ltd., at 3d. premium. Expenses were £4.
7. B. received a dividend on S. Stock of 1s. per unit free of tax.
8. B. sold £200 Ordinary stock in Q. Ltd., at £130. Expenses were £3.
9. A. sold the P. Ltd. shares at 17s. each. Expenses were £6.
10. B. sold 1,000 units in S. Ltd., at 11s. per unit. Expenses were £7.

The venture was terminated, A. taking over the shares in R. Ltd. at cost price and B. those in Q. Ltd. at £127. The balance was settled in cash.

The candidate is required to write up, in A.'s books, the joint venture account and B.'s account.

Solution

Joint Venture Account

	£		£
1. Purchase of shares in P. Ltd.	412	6. Sale of additional shares in R. Ltd. ..	221
2. B.—Purchase of stock in Q. Ltd.	387	7. B.—Dividend ..	50
3. Purchase of shares in R. Ltd.	467	8. B.—Sale of stock in Q. Ltd.	257
4. B.—Purchase of stock in S. Ltd.	648	9. Sale of shares in P. Ltd.	419
5. Purchase of additional shares in R. Ltd...	210	10. B.—Sale of units in S. Ltd.	543
		Investments account 1,200 shares in R. Ltd. at cost ..	467
		B.—Balance of stock in Q. Ltd.	127
		Loss on Venture One half A. 20	
		One half B. 20	
		—	40
	£2,124		£2,124

* The first part of the article appeared in ACCOUNTANCY for December, 1957 pages 543-4.

B's Account

	£		£
7. Joint venture account—Dividend ..	50	2. Joint venture account—Purchase of stock in Q. Ltd. ..	387
8. Joint venture account—Sale of stock	257	4. Joint venture account—Purchase of stock in S. Ltd. ..	648
10. Joint venture account—Sale of stock	543		
Joint venture account—Sale of stock in Q. Ltd.	127		
Joint venture account—Half share of loss	20		
Cash in settlement	38		
	£1,035		£1,035

Notes

1. The question requires a joint venture account to be prepared in the books of A. Consequently the joint venture account is made part of the double-entry records; whatever is given to or received from the venture by A. is debited or credited to this account, A. being credited or debited, and similarly whatever is given to or received from venture by B. is debited or credited to the account, B. being credited or debited.

2. No memorandum joint venture account is required, as the joint venture account contains all the transactions involving each venturer.

3. The loss on the venture is debited by A., as to one half to his profit and loss account, and to the other half to B. so as to reduce the amount due to B. when the final settlement is made.

4. The items are noted serially above for the purposes of identification and the numbers should not appear as part of the answer to the examiners.

5. The transactions in the answer for the examiners should be fully narrated—for example:

> Purchase of 500 £1 shares in P. Ltd. at 16s. per share *ex div.*—expenses £12 . . . £412.

6. If no account of the venture were kept on double-entry lines, a memorandum joint venture account would be opened and the only account in A.'s books would read:

Joint Venture with B. Account

	£		£
Cash—Shares in P. Ltd.	412	Cash—Sale of shares (additional) in R. Ltd. ..	221
Cash—Shares in R. Ltd.	467	Cash—Sale of shares in P. Ltd.	419
Cash—Shares (additional) in R. Ltd.	210	Investment taken over—Shares in R. Ltd. ..	467
Cash in settlement ..	38	Loss on venture ..	20
	£1,127		£1,127

This procedure is according to that suggested in the first part of this article to be followed where no separate set of books is kept, each venturer making the appropriate entries in his own books.

(*Concluded*)

CHANGE OF ACCOUNTING DATE

In the illustration on page 542 of our December issue, the references to July 31 should be to June 30.

Notices

A number of **special courses on economics, finance and automation** are being held by the Department of Management Studies of the Regent Street Polytechnic, St. Katharine's House, 194 Albany Street, London, N.W.1. Included are courses on *Presentation of Accounting Information*, consisting of five weekly meetings, 2 to 5 p.m., beginning on February 26; *Management Accounting*, fifteen meetings, 2 to 5 p.m., beginning on February 20; and *Financial Background for Policy Making*, twelve meetings, 2 to 5 p.m., beginning January 8.

The **Hollerith Computing Centre** has been opened by the British Tabulating Machine Co. Ltd. at 36 Hertford Street, London, W.1. There is a computer room, containing a "Hec" general purpose electronic computer, a lecture and film theatre and a conference room, providing a forum at which problems of management can be discussed in computer terms. There will be one-day "appreciation" courses for company directors and four-day courses for senior managers.

A lecture entitled **Can Cost Inflation be Distinguished from Demand Inflation?** will be given by Professor W. J. Fellner, PH.D., Professor of Economics at Yale University, at the London School of Economics and Political Science, Houghton Street, Aldwych, London, W.C.2, at 5 p.m. on January 23. The lecture is addressed to students of the University of London and to others interested. Admission is free, and no tickets are required.

Trevelyan Scholarships are to be offered, from funds provided by a number of industrial companies, to enable boys of British nationality from schools in the United Kingdom to attend the Universities of Oxford and Cambridge. Dr. G. M. Trevelyan, O.M., has agreed that the awards should bear his name. The sponsors believe that there are boys of high personal qualities and intellectual abilities who cannot fully express their capabilities under the present examination system. It is hoped to encourage boys to pursue a wider range of studies in the sixth form. Applicants must have undertaken some exacting task or project, either an intellectual inquiry or one involving personal observation or travel. The selection committee will require a written report on the project and a report on the applicant from his headmaster. The scholarships will be of £450 per annum, normally for three years, and will not be dependent on the parents' income. The first selections will be made in November, 1958, by a committee representing the two universities and industry. Promises of support from companies so far participating ensure that at least twelve scholarships can be awarded annually at each university for the initial five-year period. The secretary of the steering committee is Mr. R. Peddie, 17 Westbourne Road, Sheffield, 10.

A series of five lectures on **Management and the Accounting Service** will be held at the City of London College, Moorgate, London, E.C.2, on Wednesdays, February 5 to March 5, at 5.30 p.m. The fee for the course is £2 2s.

Electronic Data Processing will be the theme of the one-day conference of the Birmingham Branch of the Office Management Association on January 28 at the Botanical Gardens, Edgbaston, Birmingham, 15. Addresses will be given on "Electronic Data Processing in U.S.A." and on "Paving the Way for Electronics." Further information is obtainable from Mr. E. C. Blewitt, Swallow Raincoats Ltd., Great Hampton Street, Birmingham, 18.

The Institute of Chartered Accountants
in England and Wales

Meetings of the Council

AT SPECIAL AND Ordinary Meetings of the Council held on Wednesday, January 8, at the Hall of the Institute, Moorgate Place, London, E.C.2, there were present: Mr. W.H. Lawson, C.B.E. (President) in the chair, Mr. W. L. Barrows (Vice-President), Mr. E. Baldry, Mr. C. Percy Barrowcliff, Mr. T. A. Hamilton Baynes, Mr. J. H. Bell, Mr. J. Blakey, Mr. W. G. Campbell, Mr. P. F. Carpenter, Mr. W. S. Carrington, Mr. D. A. Clarke, Mr. J. Clayton, Mr. E. C. Corton, Mr. C. Croxton-Smith, Mr. W. G. Densem, Mr. A. S. H. Dicker, M.B.E., Sir Harold Gillett, M.C., Mr. J. Godfrey, Mr. P. F. Granger, Mr. L. C. Hawkins, Mr. J. S. Heaton, Mr. D. V. House, Sir Harold Howitt, G.B.E., D.S.O., M.C., Mr. P. D. Irons, Mr. H. O. Johnson, Mr. H. L. Layton, M.S.M., Mr. R. B. Leech, M.B.E., T.D., Mr. R. McNeil, Mr. J. H. Mann, M.B.E., Mr. Bertram Nelson, C.B.E., Mr. W. E. Parker, C.B.E., Mr. S. J. Pears, Mr. F. E. Price, Mr. P. V. Roberts, Sir Thomas Robson, M.B.E., Mr. G. F. Saunders, Mr. K. G. Shuttleworth, Mr. C. M. Strachan, O.B.E., Mr. J. E. Talbot, Mr. E. D. Taylor, Mr. G. L. C. Touche, Mr. A. D. Walker, Mr. M. Wheatley Jones, Mr. E. F. G. Whinney, Mr. J. C. Montgomery Williams, Mr. R. P. Winter, M.C., T.D., Sir Richard Yeabsley, C.B.E., with the Secretary and Assistant Secretaries.

Welcome to New Members
The President welcomed Mr. L. C. Hawkins and Mr. H. L. Layton, who were attending for the first time as members of the Council. Mr. Hawkins and Mr. Layton briefly replied.

Appointments to Committees
The Council made the following appointments to Committees:

Mr. J. Ainsworth—Finance and Non-Practising Members Consultative Committees.

Mr. E. Baldry—Applications and General Purposes Committees.

Mr. C. Percy Barrowcliff—Examination and Investigation Committees.

Mr. L. C. Hawkins—Applications and Non-Practising Members' Consultative Committees.

Mr. J. S. Heaton—Examination and Library Committees.

Mr. H. O. Johnson—Articled Clerks and District Societies Committees.

Mr. H. L. Layton—Overseas Relations and Summer Course Committees.

Mr. Bertram Nelson—Articled Clerks, Disciplinary and Examination Committees.

Mr. F. E. Price—Finance and District Societies Committees.

Sir Richard Yeabsley—Overseas Relations Committee [already appointed to General Purposes Committee].

Exemption from the Preliminary Examination
One application under Bye-law 79 for exemption from the Preliminary examination was acceded to.

Exemption from the Intermediate Examination
Four applications under Bye-law 85 (*b*) and one application under Bye-law 63 (*d*) for exemption from the Intermediate examination were acceded to.

Final Examination
One application under Bye-law 86 (*a*) for permission to sit an earlier Final examination was acceded to.

Reduction in Period of Service under Articles
Five applications under Bye-law 61 for a reduction in the period of service under articles were acceded to.

Articled Clerks Engaged in Other Business
Two applications under Bye-law 57 from articled clerks to engage during their service under articles in other business for the sole purpose and to the limited extent specified in their applications were acceded to.

Articled Clerks in Industrial Organisations
Three applications under Bye-law 58 (*c*) from articled clerks to spend a period not exceeding six months in an industrial or commercial organisation during service under articles were acceded to.

Summer Course—Christ Church and Merton College, Oxford—September 4 to 9, 1958
The Council authorised the distribution to all members of the Institute of a notice giving preliminary details of the Summer Course to be held at Christ Church and Merton College, Oxford, from September 4 to 9, 1958. The notice will be accompanied by an application form. It is expected that the notices will be distributed towards the end of January, 1958. The same notice will be issued with the letter of admission to members who are admitted under the scheme of integration at the Council meetings on February 5, 1958, and March 5, 1958.

The subjects and speakers will be *Some Taxation Problems of Particular Interest in the Smaller Practice* by Mr. B. R. Pollott, F.C.A., *Shortcomings of the Companies Act, 1948* by Mr. C. Romer-Lee, M.A., F.C.A., and *Work Study and Accountancy—the Investigation, Planning and Control of Industrial Processes and Business Operations*, by Mr. C. T. Gould, M.I.E.E., A.M.I.P.E., F.I.I.TECH., of Albert E. Reed and Co. Ltd.

The P.D. Leake Trust
The Council approved for publication the accounts of the P. D. Leake Trust for the year to October 31, 1957, a report on the administration of the Trust and a report of the P. D. Leake Committee. A booklet containing these reports and accounts may be obtained without charge on application to the offices of the Institute by any interested person. (It is expected that copies will be available by the end of January, 1958.)

Seventh International Congress of Accountants—Record of Proceedings
The Council authorised the issue of a notice to all members of the Institute regarding the procedure for purchasing copies of the record of proceedings at the Seventh International Congress of Accountants. It is understood from the Congress Secretary in Amsterdam that the book is expected to be ready in April, 1958. (Those who attended the congress will receive copies automatically.) The notices to members will be issued towards the end of January, 1958.

Schedule 'E' Expenses Rule
On the report of the Parliamentary and Law Committee, following consideration of a memorandum from the Taxation and Research Committee, the Council approved a memorandum on the Schedule E expenses rule (rule 7, Ninth Schedule, Income Tax Act, 1952) for submission to the Board of Inland Revenue.

Admissions to Membership under the Scheme of Integration
The Council acceded to applications from 977 members of the Society of Incorporated Accountants for admission to membership of the Institute pursuant to the Scheme of Integration referred to in Clause 34 of the Supplemental Charter. All the new members have been notified.

The Council expects to be able to adhere to the time-table notified to members of the Institute and members of the Society last November—namely, the completion of the bulk of the admissions under the scheme of integration by the Council meeting on March 5, 1958. It is hoped that some 4,000 applicants will be admitted at the Council meeting on February 5 and the bulk of the remainder on March 5.

Certificates of Practice
It was resolved:

(1) that a certificate of practice be issued to the following Fellow who has commenced to practise:

COLE, FREDERICK ARTHUR; 1949, F.C.A.; 1921, A.C.A.; 79 Pashley

Road, Eastbourne (and †A. F. Ferguson & Co., Bombay and New Delhi).

(2) that certificates of practice be issued to the following ten Associates who have commenced to practise:

ANDERSON, CHRISTOPHER JOHN; M.A., 1957, A.C.A.; 65 Rodney Road, West Bridgeford, Nottingham.

ATLAS, LAURENCE HYMAN; 1955, A.C.A.; (Field, Atlas & Co.), Brookfield House, 62–64 Brook Street, London, W.1, and at Cardiff.

BOLTON, ROY PERCY; 1952, A.C.A.; 41 Cobnar Avenue, Sheffield, 8.

BOOBBYER, PHILIP JOHN; 1953, A.C.A.; (Saunders & Saunders), 22 Lowfield Street, Dartford, Kent, and at London.

GODFREY, WILLIAM SEYMOUR; 1948, A.C.A.; (*H. A. Merchant & Co.), 48 Uxbridge Road, Ealing, London, W.5.

HOLMAN, JOHN WALTER FRANCIS; 1955, A.C.A.; 3 Waterlow Road, London, N.19.

MANN, SIDNEY ARTHUR; 1957, A.C.A.; (L. Lavy & Co.), Imperial House, Dominion Street, London, E.C.2.

RIX, ROWLAND BASIL; 1947, A.C.A.; (Curzon, Rix & Co.), Prudential Chambers, 67 North Hill, and 31 Victoria Road, Colchester.

STEWARD, JAMES STANLEY; 1957, A.C.A.; 221 Seven Sisters Road, Finsbury Park, London, N.4.

TROTTER, DENNIS ROY; 1957, A.C.A.; 40 Barnfield Avenue, Croydon, Surrey.

Election to Fellowship

Twenty-nine applications from Associates for election to Fellowship under clause 6 of the supplemental Charter (Bye-law 31) were acceded to. A list of those who complete their Fellowship before January 21 will appear in our next issue.

Admission as Associates

Four applications for admission as Associates under clause 5 of the supplemental Charter (Bye-law 31) were acceded to. A list of those who complete their membership before January 21 will appear in our next issue.

Resignation

The Council accepted the resignation from membership of the Institute of:

GOLDING, RICHARD TURNER, F.C.A., Liverpool.

Registration of Articles

The Secretary reported the registration of articles of clerkship as follows:

	1957	1956
December	204	69
January to December	1,624	1,596

Change of Name

The Secretary reported that the following change of name has been made in the Institute's records:

STEWARD, STANLEY JAMES to Steward, James Stanley.

Deaths of Members

The Council received with regret the Secretary's report of the deaths of the following members:

BRADSHAW, EDWIN, F.C.A., Llandudno.

BURGESS, ALGERNON THOMAS, A.C.A., Twickenham.

CHARLTON, HUGH STEVEN, A.C.A., Mwadui, Tanganyika.

ELLISON, ALFRED, F.C.A., Liverpool.

FROGGOTT, WILLIAM, A.C.A., Manchester.

HADFIELD, KENNETH, A.C.A., London.

HILL, ERNEST RICHARDS, F.C.A., Nottingham.

HILTON, HAROLD ROUNDELL, F.C.A., Nottingham.

IVES, FREDERICK, A.C.A., London.

LEE, FRANK, A.C.A., London.

LEPINE, CECIL HENRY, A.C.A., London.

LYELL, GEORGE DRUMMOND, B.A., A.C.A., Croydon.

MOTT, GEORGE, A.C.A., Worthing.

PEPPER, THOMAS COLCLOUGH, F.C.A., Birmingham.

SILK, CYRIL HARRY, A.C.A., Stourport-on-Severn.

SLOMAN, FREDERICK SAMUEL, F.C.A., London.

WATERWORTH, GUY, F.C.A., Blackburn.

Finding and Decision of the Disciplinary Committee

Finding and decision of the Disciplinary Committee of the Council of the Institute appointed pursuant to bye-law 103 of the bye-laws appended to the supplemental Royal Charter of December 21, 1948, at a hearing held on December 4, 1957.

A formal complaint was preferred by the Investigation Committee of the Council of the Institute to the Disciplinary Committee of the Council that Denis Jeston Black, F.C.A., had been guilty of acts or defaults discreditable to a member of the Institute within the meaning of Clause 21, sub-clause (3), of the supplemental Royal Charter in that (*a*) he failed to take any action in response to repeated requests made to him by a client and by a firm of chartered accountants to complete and/or to hand over the accounts of the business of the said client for the year ended May 31, 1956, and to supply certain particulars of that business as at that date and (*b*) he failed to reply to or to take any action in response to two letters addressed to him by the Secretary of the Institute, so as to render himself liable to exclusion or suspension from membership of the Institute. The Committee found that the formal complaint against Denis Jeston Black, F.C.A., had been proved under both headings and the Committee ordered that Denis Jeston Black, F.C.A., of 109 Kingsway, London, W.C.2, be excluded from membership of the Institute.

Relations Between the Professions

THE EXETER AND District Branch of the Bristol and West of England Society of Chartered Accountants held a dinner at the Imperial Hotel, Exeter, on December 6. Mr. C. W. Puckett, F.C.A., Chairman of the Branch, presided. The guests included the Right Worshipful the Mayor of Exeter (Councillor Lieutenant-Colonel R. H. Creasy); Mr. K. C. H. Rowe, M.B.E., J.P. (Sheriff of Exeter); Mr. A. S. H. Dicker, M.B.E., F.C.A. (immediate past President of the Institute of Chartered Accountants in England and Wales); Dr. J. W. Cook, F.R.S. (Vice-Chancellor of the University of Exeter); Professor J. Sykes, O.B.E., M.A., M.COM., PH.D. (Professor of Economics, University of Exeter); Mr. S. McClelland, M.A. (H.M. Inspector of Taxes); and other representatives of professional bodies and the Inland Revenue.

The Sheriff of Exeter (Mr. K. C. H. Rowe, M.B.E., J.P.) proposed the toast of the Institute of Chartered Accountants in England and Wales. He said that any professional body which took such pains over the training of its members deserved to be held in the highest esteem.

Mr. A. S. H. Dicker, M.B.E., F.C.A. (immediate past President of the Institute of Chartered Accountants in England and Wales) responded. He referred to the death on the previous day of Mr. Ronald Staples, to whom the profession owed much: his work would live and his name would be remembered for many years.

Mr. Dicker then spoke of the relationships that must be recognised by the members of all professions, especially those so closely connected as law, accountancy, land and estate agency and banking. At one time these were in more or less separate watertight compartments. But with the intricacies of modern legislation, cases arose of accountants dabbling in legal agreements, solicitors purporting to produce trading and profit and loss accounts, banks accused of unfair competition in tax work by their privilege of advertising, and members of the bodies

† Against the name of a firm indicates that the firm, though not wholly composed of members of the Institute, is composed wholly of chartered accountants who are members of one or the other of the three Institutes of chartered accountants in Great Britain and Ireland.

* Against the name of a firm indicates that the firm is not wholly composed of members of one or the other of the three Institutes of chartered accountants in Great Britain and Ireland.

Firms not marked † or * are composed wholly of members of the Institute.

associated with landed property dealing with accountancy work on farming activities.

Gradually common sense and goodwill prevailed, and during the last decade a great deal of sorting out and tidying up had been done, happily, by agreements—chiefly by what were known as gentlemen's agreements—between the professional bodies. As an accountant practising in the provinces, he knew only too well what had been happening. He had every reason to believe that the friendly and co-operative understanding which now existed in his own region of East Anglia existed also throughout the country generally. Probably the most successful contacts were made at local level.

The scheme of integration was now virtually completed, and during the next few months the Institute headquarters would be dealing with the applications and formal registration of up to 9,000 Incorporated Accountants. This was a momentous change, one which he was confident would be ultimately of general benefit for the whole profession and the public. When the scheme was completed, the fundamental requirement of service under articles and qualification through examinations at the present high level would continue to govern admission to membership of the Institute.

There was now one body, able to talk with one voice, instead of two, and the designation "Chartered Accountant" would not only retain its high reputation but also embody all that was best in the profession.

Mr. S. McClelland, M.A. (H.M. Inspector of Taxes) proposing the toast of the City and County of the City of Exeter, urged a revision of university examinations to avoid too early specialisation, the result of which was so often the angry young man with a degree and training with no relevance to earning his living.

The Mayor of Exeter (Lt.-Colonel R. H. Creasy) responded. He recalled that the city's mayoralty was twelve years older than any other in the country, and it was the only one with the privilege of the form of address "the Right Worshipful."

Mr. C. W. Puckett, F.C.A., Chairman of the Exeter and District branch, proposed the toast of the guests. He spoke of the popularity of the residential accountancy courses held at the University of Exeter.

Professor J. Sykes, O.B.E., M.A., M.COM., PH.D. (Professor of Economics at the University of Exeter) responded in a humorous speech.

Annual Dinner of Students' Society of London

THE CHARTERED ACCOUNTANT Students' Society of London held its forty-fourth annual dinner at Grosvenor House, London, on December 9, 1957. Sir Harold Gillett, M.C., F.C.A., the President of the Society, was in the chair. There was a record attendance of over 1,200 members and guests. Among the guests were Mr. R. R. Hancock, M.A., Chairman, the Headmasters' Conference; Mr. W. H. Lawson, C.B.E., B.A., F.C.A., President of the Institute of Chartered Accountants in England and Wales; the Rt. Hon. R. McKinnon Wood, O.B.E., M.A., F.R.AE.S., J.P., Chairman, London County Council; Mr. H. Garton Ash, O.B.E., M.C., F.C.A. (Past President, the Institute of Chartered Accountants in England and Wales); Mr. W. L. Barrows, F.C.A. (Vice-President, the Institute of Chartered Accountants in England and Wales); Sir Harold Barton, F.C.A. (Past President, the Institute of Chartered Accountants in England and Wales; Vice-President of the Students' Society); Professor W. T. Baxter, B.COM., C.A. (Professor of Accounting, University of London); Sir Hugh Beaver (President, the Federation of British Industries); The Rt. Hon. and Rt. Rev. H. C. Montgomery Campbell, M.C., D.D. (The Lord Bishop of London); Mr. W. S. Carrington, F.C.A. (Past President, the Institute of Chartered Accountants in England and Wales); Mr. Douglas A. Clarke, LL.B., F.C.A. (Member of the Council, the Institute of Chartered Accountants in England and Wales; Vice-President, the Students' Society); Sir Henry Hancock, K.C.B., K.B.E., C.M.G. (Chairman, Board of Inland Revenue); Mr. D. V. House, F.C.A. (Past President, the Institute of Chartered Accountants in England and Wales); Mr. E. Milner Holland, Q.C. (Chairman, The General Council of the Bar); Sir Harold Kent, K.C.B. (Treasury Solicitor); Mr. Alan S. MacIver, M.C., B.A. (Secretary, the Institute of Chartered Accountants in England and Wales); Mr. L. C. McCracken (Chairman of the Students' Society Committee); Mr. Brian Manning, D.L., J.P., F.C.A. (Vice-President of the Students' Society); Mr. B. M. O'Regan B.SC.(ECON.) (Vice-Chairman of the Students' Society Committee); Sir Thomas Robson, M.B.E., M.A., F.C.A. (Past President, the Institute of Chartered Accountants in England and Wales; Vice-President of the Students' Society); The Rt. Hon. Sir Hartley Shawcross, Q.C., M.P.; Mr. E. Kenneth Wright, M.A., F.C.A. (Chairman, London and District Society of Chartered Accountants); Mrs. E. M. Wright, A.C.A. (Chairman, Women Chartered Accountants' Dining Society); Sir Richard Yeabsley, C.B.E., F.C.A. (member of the Council of the Institute).

Proposing the toast of "The Students' Society," Mr. R. R. Hancock said that the essential quality of an accountant could be summarised in the term "integrity," which explained why the Chartered Accountant would never be replaced by the electronic computer. The personal dynamism of the accounting and other professions was of great significance. It was his earnest conviction that never in the country's long history had it had better human material than it had in the young people today.

In response to the toast, Mr. Leslie C. McCracken, Chairman of the Students' Society Committee, said that the Society organised various functions with two aims: firstly, the education that was gained by one student working and talking with another and, secondly, to bring the student body more closely in touch with senior members of the Institute. Mr. McCracken acknowledged the gratitude of the members of the Society to Sir Harold Gillett, who had devoted himself to the Society and given an extraordinary amount of time to its affairs.

Proposing the toast of "The Visitors," Sir Harold Gillett said that at that dinner they were having the largest meeting they had ever had of the Students' Society, heralding the even greater nights that were to come when after the beginning of 1958 they issued cordial invitations to the members of the Society of Incorporated Accountants to join in with them (*Hear, hear*). Whether next year they went to Grosvenor House, or to the Albert Hall or to the Royal Festival Hall, the same spirit of comradeship would actuate them all the way through.

Replying to the toast, Mr. McKinnon-Wood said that while it was beginning to be realised that production of experts was necessary and the field in which they were expert would necessarily become contracted, the basis of their education must be broadened.

Sir David Keir, proposing the toast of "The Institute of Chartered Accountants in England and Wales," said that integration had achieved, he thought rightly, wisely, patiently and with statesmanship, a union of resources in the profession that promised well for its future. With union, they would have on the one hand the word "chartered" with its note of adventure, freedom and enterprise, and on the other hand "incorporated" with that other essential of the British character—stability, continuity, the power to hold real liberty and to have a seal and to enjoy perpetual succession. (*Applause.*)

Mr. W. H. Lawson, responding to the toast, said the integration of the Institute and the Society would mean that the total membership of the Institute would amount to some 30,000 and comprised within it would be an overwhelming proportion of accountants in public practice in England and Wales. Their responsibility, which had always been great, for setting the standards of the profession and for providing the best possible service for the public, would be further increased and must govern their policy on recruitment, education and technical and ethical standards. But as a profession they would be judged not by the pronouncements of the Council but by the

actions of the members, including, in due course, he hoped, all who were there that night. (*Applause.*)

Women Chartered Accountants' Dining Society

THE ANNUAL OPEN DINNER of the Women Chartered Accountants' Dining Society was held at the Rubens' Hotel, London, on November 30, with the Chairman, Mrs. Elizabeth M. Wright, presiding. The principal guests included Mr. W. H. Lawson, the President of the Institute of Chartered Accountants in England and Wales, and Mrs. Lawson, Sir Richard and Lady Yeabsley and Miss Phyllis Ridgway.

Mrs. Wright said that many of those present would be as glad as she was to think that the word "integration" would now be dropping out of their vocabulary. She thought it was an ugly word; she remembered the late Walter de la Mare saying what a pity he thought it was that so many beautiful sounding words and imposing words in the language often had very ordinary meanings, or even unpleasant or unhappy meanings, and what a pity it was that the words could not be used in different circumstances. He gave the instance of a young couple trying to choose a name for their baby daughter and regretting that they were not able to call her Linoleum. And what a loss he thought it was to the House of Lords that Lord Rheumatoid Arthritis was absent!

They would be making a warm welcome to all those members of the Society of Incorporated Accountants who would shortly be taking up membership of the Institute. The Dining Society would soon be inviting those Incorporated women members who would be joining the Institute to join also the Dining Society, so that it could continue to be representative of all women Chartered Accountants.

District Societies

London

THE LONDON AND District Society of Chartered Accountants held a luncheon on January 13 at the Connaught Rooms, London, W.C.2. An address was given by Sir Edward Boyle, BT., M.P., Parliamentary Secretary to the Ministry of Education.

Northern Ireland

THE INCORPORATED ACCOUNTANTS' District Society of Northern Ireland held an informal farewell dinner at the Wellington Park Hotel, Belfast, on November 28. About sixty members and students were present. The achievements of the past and hopes for the future formed the theme of speeches by Mr. R. J. Neely (President of the District Society), Mr. J. W. Baird (Vice-President), Mr. W. Keith, Mr. D. T. Boyd and Mr. Robert Bell.

Birmingham Students' Society—Stoke-on-Trent Branch

THE STOKE-ON-TRENT Area Branch of the Birmingham Chartered Accountant Students' Society was formed on November 30. The officers and committee are: President, Mr. A. B. Snow, F.C.A.; Chairman, Mr. N. E. Dunning, A.C.A.; Honorary Secretary, Mr. D. J. Carter; Honorary Assistant Secretary, Mr. J. R. Skae; Honorary Treasurer, Mr. J. E. Plumb; Committee, Mr. D. B. Cartwright, Mr. E. J. Stoddard, Mr. M. H. Worthington, Mr. P. W. Gater; Auditor, Mr. G. B. Bennett, A.C.A.

Events of the Month

January 18.—*Brighton:* "Electronic Computers," by Mr. J. W. Mitchell, A.C.A. Students' meeting. Technical College Annexe, 7 St. George's Place, at 10.30 a.m.
Manchester: "General Commercial Knowledge (II) and (III)," by Mr. H. C. Cox, F.C.A. Preparatory lectures. Chartered Accountants' Hall, 46 Fountain Street, at 9.30 a.m. and 11 a.m.
Manchester: "Consolidated Accounts (I)," by Mr. R. Y. Taylor, B.A., A.C.A., and "Mechanised Accounting," by Mr. R. W. Kirtley, B.A.(COM.), A.C.A. Final students' lectures. 46 Fountain Street, at 9.30 a.m. and 11 a.m.
Preston: "Company Law (III) and (IV)," by Mr. E. J. N. Harris, M.A. Final Students' lectures. Reform Club, Chapel Street, at 10 a.m. and 11.15 a.m.
January 20.—*Coventry:* "Money and Banking," by Mr. A. B. Measures. Students' meeting. "Golden Cross," Hay Lane, at 6 p.m.
Grimsby: Lunch, followed by a talk on the work of his Department by Mr. G. Bradley, F.I.M.T.A., A.S.A.A., Borough Treasurer. County Hotel, Brighowgate, at 1 p.m.
Liverpool: Students' debate with the Liverpool Law Students. Law Library.
Luton: "The Executor's Accounts," by Mr. R. Glynne Williams, F.C.A., F.T.I.I. Students' meeting. Chamber of Commerce, at 5.30 p.m.*
Manchester: "Recent Developments under Schedule 'E' and Overseas Trading Corporations," by Mr. H. A. R. J. Wilson, F.C.A. Chartered Accountants' Hall, 46 Fountain Street, at 6 p.m.
January 21.—*Sheffield:* "A Practising Accountant's views on Management Accounting," by Mr. C. C. Taylor, J.P., F.C.A. Grand Hotel, at 7.30 p.m.
Stoke-on-Trent: Joint meeting with the Inspectors of Taxes. North Stafford Hotel, at 5 p.m.
January 22.—*Belfast:* "Executorship," by Mr. L. J. Northcott, F.C.A. Students' meeting. Library, at 7 p.m.*
Nottingham: "Management Accounting," by Mr. H. T. Scothorne, F.C.A. Students' meeting. Elite Cinema, Parliament Street, at 5.30 p.m.
Preston: Debate and hot pot supper. Students' joint meeting with the Preston Law Debating Society.

* Under the auspices of an Incorporated Accountants' District or Students' Society.

Wolverhampton: Visit to Boulton Paul Aircraft Ltd.
January 23.—*Liverpool:* "Customs and Excise," by Mr. R. B. Cunningham, O.B.E. Students' meeting. Library, 5 Fenwick Street, at 5 p.m.
Manchester: "The C.P.A.," by Mr. S. J. I. Battersby. Students' meeting. Chartered Accountants' Hall, 46 Fountain Street, at 6 p.m.
Newcastle upon Tyne: "Process Costing," by Mr. F. E. V. Nolan, A.C.A. Students' meeting. Lecture Theatre, Neville Hall, Westgate Road, at 6 p.m.
Preston: Works visit to Dutton's Brewery. Students' meeting.
Stockton: "Estate Duty" and "An Executor's Accounts," by Mr. V. S. Hockley, B.COM., C.A., A.A.C.C.A. Students' meetings. Vane Arms Hotel, at 10 a.m. and 2.30 p.m.
Taunton: General discussion. The County Hotel, at 6.15 p.m.
January 24.—*Birmingham:* "The Functions of the Stock Exchange," by Mr. Peter Harris. Students' meeting. 36 Cannon Street, at 6 p.m.
Bournemouth: "The London Money Market. Banking and the Stock Exchange," by Mr. C. R. Curtis, M.SC.ECON., PH.D., F.C.I.S. Students' meeting. Grand Hotel, Fir Vale Road, at 4.30 p.m.
Bristol: "Company Law—Receiverships," by Mr. R. D. Penfold, LL.B., A.C.I.S. Royal Hotel, College Green, at 6.30 p.m.*
Hull: "Bankruptcy," by Mr. A. J. Whiteside, M.S., Barrister-at-Law. Students' meeting. Church Institute, Albion Street, at 6.15 p.m.*
Leeds: "Surtax Directions," by Mr. Philip Shelbourne, Barrister-at-Law. Hotel Metropole, at 6.15 p.m.
Manchester: "Income Tax," by Mr. N. D. B. Robinson, M.B.E., F.S.A.A. Students' meeting. Incorporated Accountants' Hall, 90 Deansgate, at 6 p.m.*
Swansea: "Divisible Profits," by Mr. R. Glynne Williams, F.C.A., F.T.I.I. Students' meeting. Lovell's Cafe, St. Helen's Road, at 5.10 p.m.
January 25.—*Brighton:* "Mechanised Accounting and the Auditor," by Mr. L. W. Shaw, B.SC. Final students' meeting. Technical College Annexe, 7 St. George's Place, at 10.30 a.m.
Manchester: "Elements of English Law (I) and (II)," by Mr. J. C. Wood, LL.M. Preparatory lectures. Board Room, 46 Fountain Street, at 9.30 a.m. and 11 a.m.
Manchester: "Surtax," by Mr. H. B. Vanstone, F.C.A., and "Auditing (III)," by Mr. J. C. F. Bolton, B.A.(COM.), A.C.A. Students' Intermediate lectures. Onward Hall, 207 Deansgate, at 9.30 a.m. and 11 a.m.
Manchester: "Foreign Exchange" and "Balance Sheet Interpretation," by Mr. N. V. Underwood, A.I.B. Final Students' lectures. 46 Fountain Street, at 9.30 a.m. and 11 a.m.
Preston: "Consolidated Accounts," by Mr. R. Y. Taylor, B.A., A.C.A., and "Mechanised Accounting," by Mr. R. W. Kirtley, B.A.(COM.), A.C.A. Final Students' lectures.

Reform Club, Chapel Street, at 10 a.m. and 11.15 a.m.

January 28.—*Brighton:* "Executorship—Apportionments" and "Income Tax—Capital Allowances," by Mr. H. A. R. J. Wilson, F.C.A. Introduction by Mr. C. R. P. Goodwin, F.C.A. Students' meeting. King and Queen Hotel, Marlborough Place, at 5.45 p.m.

London: "The Possibilities and Uses of Incorporation for Professional Firms," by Mr. P. M. Christopherson and Mr. J. W. Mayo, Solicitors. Hall of the Chartered Insurance Institute, 20 Aldermanbury, E.C.2, at 6 p.m.

January 29.—*Colchester:* "Surtax in Relation to Private Companies," by Mr. J. E. Talbot, F.C.A. Red Lion Hotel, at 2.15 p.m.

Nottingham: "Marine Insurance," by Mr. J. A. Carr, A.C.I.I. Students' meeting. Elite Cinema, Parliament Street, at 5.30 p.m.

Oxford: "Costing," by Mr. F. T. Hunter, F.C.A., F.C.W.A. Kemp Restaurant, Broad Street, at 6.30 p.m.

Swansea: "Customs and Excise," by Mr. R. E. Martin, M.C. Students' luncheon meeting.

January 30.—*Bradford:* "The Investigation of Crime," by Det.-Insp. Lockley. Students' meeting. Midland Hotel, at 6.15 p.m.

Hull: "Insurance—a General Survey," by Mr. L. A. Grassam. Students' meeting. Imperial Hotel, Paragon Street, at 6.15 p.m.

Liverpool: Students' annual ball. Hotel Victoria, New Brighton.

Manchester: Visit to a printing works of the Calico Printers' Association Ltd. Students' meeting. 46 Fountain Street, at 2 p.m.

January 31.—*Birmingham:* "The Financial Column of *The Times* and the Weekly Statements of the Bank of England," by Mr. C. R. Curtis, M.SC.(ECON.), PH.D., F.C.I.S. Students' meeting. 36 Cannon Street, at 6 p.m.

Blackpool: Students' dinner dance. Queens Hydro Hotel, South Promenade.

Leeds: Luncheon, Great Northern Hotel, at 1 p.m.

Leicester: "Branch Accounts," by Mr. R. J. Carter, B.COM., F.C.A. Students' meeting. Bell Hotel, Humberstone Gate, at 6 p.m.

Newcastle upon Tyne: Luncheon. County Hotel, at 12.30 p.m.

February 1.—*Brighton.* "A Few Taxation Perplexities," by Mr. C. H. Kohler, F.C.A. Intermediate students' meeting. Technical College Annexe, 7 St. George's Place, at 10.30 a.m.

Hastings: Students' annual meeting. "Assessments under Schedule D, Cases I and II," by Mr. G. W. Davies, F.C.A. Chatsworth Hotel, Carlisle Parade, at 10.15 a.m.

Luton: "Taxation," and "The European Common Market," by Mr. W. G. Skinner, B.SC.(ECON.), F.R.ECON.S. Students' meeting. Chamber of Commerce, at 10 a.m.

Manchester: "Elementary Auditing, (I) and (II)," by Miss M. A. T. Hodge, B.A., A.C.A. Preparatory lectures. Board Room, 46 Fountain Street, at 9.30 a.m. and 11 a.m.

Manchester: "Insolvency," by Mr. W. Pickles, B.COM., F.C.A., and "General Commercial Knowledge (I)," by Mr. S. Wild, A.I.B. Students' intermediate lecture. Onward Hall, 207 Deansgate, at 9.30 a.m. and 11 a.m.

Manchester: "General Financial Knowledge," by Mr. S. Wild, A.I.B., and "The Accountant's Work for a Company Flotation," by Mr. W. Pickles, B.COM., F.C.A. Final Students' lectures. 46 Fountain Street, at 9.30 a.m. and 11 a.m.

Preston: "Surtax," by Mr. H. B. Vanstone, F.C.A., and "Auditing (III)," by Mr. J. C. F. Bolton, B.A.(COM.), A.C.A. Students' intermediate lectures. Reform Club, Chapel Street, at 10 a.m. and 11.15 a.m.

Preston: "Foreign Exchange" and "Balance Sheet Interpretation," by Mr. N. V. Underwood, A.I.B. Final Students' lectures. Reform Club, Chapel Street, at 10 a.m. and 11.15 a.m.

February 3.—*Coventry:* "Take-over Bids," by Mr. R. B. Wickenden, F.C.A. Students' meeting. "Golden Cross," Hay Lane, at 6 p.m.

Coventry: "Electronics in Accounting," by Dr. A. H. Marshall, C.B.E., PH.D., F.S.A.A. Chace Hotel, London Road, at 12.45 p.m.

February 4.—*Manchester:* Film show at Chartered Accountants' Hall at 6 p.m. followed by a social evening at the Waldorf Hotel, Cooper Street, at 7 p.m. Students' meeting.

February 5.—*London:* Taxation Group meeting. Incorporated Accountants' Hall, W.C.2, at 6 p.m.*

Nottingham: "Auditor of a Limited Company" and "Case Law and Divisible Profits," by Mr. P. E. Harris, A.S.A.A. Students' meeting. Elite Cinema, Parliament Street, at 4 p.m.

Wolverhampton: "Planning your Career in Accountancy," by Mr. R. J. Carter, F.C.A., B.COM. Students' meeting. Victoria Hotel, at 6 p.m.

February 6.—*Exeter:* "The Courts of Law," by Mr. G. E. Purchase. Students' meeting. Imperial Hotel, at 2.30 p.m.

Grimsby: "Income Tax Losses and Profits Tax," by Mr. V. S. Hockley, B.COM., C.A., A.A.C.C.A. Students' meeting. Chamber of Commerce, 77 Victoria Street, at 4 p.m. and 7 p.m.

Manchester: "Standard Costing," by Mr. V. R. Anderson, A.C.A. Students' meeting. Chartered Accountants' Hall, 46 Fountain Street, at 6 p.m.

Southampton: Students' annual dinner. Polygon Hotel, at 7 p.m.

Stockton: "Examination Questions on Costing," by Mr. G. Tattersall-Walker, A.C.A. Students' meeting. Black Lion Hotel, at 6 p.m.

Swansea: "The Rent Act, 1957, and Rating and Valuation Act," by Mr. D. W. Peter Williams. Mackworth Hotel, at 6.45 p.m.

Warrington: Visit to the Wilderspool Brewery of Greenall, Whitley & Co. Ltd.

February 7.—*Birmingham:* "The Restrictive Trade Practices Act, 1956," by Dr. M. Burley, B.COM., PH.D. Joint lecture. The University, Edmund Street, at 6.30 p.m.

Bristol: "Recent Changes in Income Tax and Surtax," by Mr. K. S. Carmichael, A.C.A. Royal Hotel, at 5.45 p.m.

Hull: Students' annual dance. The Guildhall.

Manchester: "Income Tax," by Mr. N. D. B. Robinson, M.B.E., F.S.A.A. Students' meeting. Incorporated Accountants' Hall, 90 Deansgate, at 6 p.m.*

Nottingham: Students' dinner-dance.

Sheffield: "Group Accounts" and "Auditing," by Mr. V. S. Hockley, B.COM., C.A. Students' meeting. Grand Hotel, at 4 p.m. and 6 p.m.

February 8.—*Brighton:* "Bankruptcy Law," by Mr. R. D. Penfold, LL.B. Final Students' meeting. Technical College Annexe, 7 St. George's Place, at 10.30 a.m.

Hastings: "Profits Tax," by Mr. D. C. Farthing, A.C.A. Students' meeting. Chatsworth Hotel, Carlisle Parade, at 10.45 a.m.

Manchester: "Executorship Accounts (I) and (II)," by Mr. H. C. Cox, F.C.A. Intermediate Students' lecture. Onward Hall, 207 Deansgate, at 9.30 a.m. and 11 a.m.

Manchester: "Auditing (I) and (II)," by Mr. T. W. E. Booth, F.C.A. Final Students' meeting. 46 Fountain Street, at 9.30 a.m. and 11 a.m.

Preston: "Insolvency," by Mr. W. Pickles, B.COM., F.C.A. "General Commercial Knowledge (I)," by Mr. S. Wild, A.I.B. Students' Intermediate lectures. Reform Club, Chapel Street, at 10 a.m. and 11.15 a.m.

Preston: "General Financial Knowledge," by Mr. S. Wild, A.I.B., and "The Accountant's Work for a Company Flotation," by Mr. W. Pickles, B.COM., F.C.A. Final Students' lectures. Reform Club. Chapel Street, at 10 a.m. and 11.15 a.m.

February 10.—*Manchester:* "The Application of Electronic Computers to Accounting Procedures," by Mr. J. A. Goldsmith, M.A., A.C.A. Chartered Accountants' Hall, 46 Fountain Street, at 6 p.m.

February 11.—*Bournemouth:* "Stores and Stock Control." Lecture and film by Mr. L. Winter. Students' meeting. Grand Hotel, Fir Vale Road, at 6 p.m.

Sheffield: Luncheon. Grand Hotel, at 12.30 p.m.

February 12.—*Belfast:* "Company Law," by Mr. J. Stewart Oakes, Barrister-at-Law. Students' meeting. The Library, at 7 p.m.*

February 13.—*Bradford:* "Mercantile Law," by Mr. A. M. B. Rule, M.B.E., M.A., LL.B. Students' meeting. Midland Hotel, at 6.15 p.m.

Bristol: "Consolidated Accounts," by Mr. V. S. Hockley, B.COM., C.A. Royal Hotel, College Green, at 6.30 p.m.*

Exeter: "Bankruptcy," by Mr. F. J. Thompson. Students' meeting. Imperial Hotel, at 2.30 p.m.

Manchester: Visit to Wilson's Brewery Ltd. Students will assemble at 46 Fountain Street at 2 p.m.

Newcastle upon Tyne: "Stock Exchange Procedure," by a member of the Newcastle Stock Exchange. Students' meeting. Lecture Theatre, Neville Hall, Westgate Road, at 6 p.m.

Nottingham: "Bankruptcy Administration," by Mr. E. C. Stimpson. Welbeck Hotel, at 1 p.m.

Portsmouth: Meeting on *Carbs*. Exhibition of office equipment.
Sheffield: "Management Accounting and the Small Firm," by Mr. G. L. Page, B.SC., A.M.I.MECH.E. Grand Hotel, at 7.30 p.m.
February 14.—*Birmingham:* "Bankruptcy," by Mr. W. H. Haigh, Official Receiver of Birmingham. Students' meeting. 36 Cannon Street, at 6 p.m.
Hull: Students' annual meeting. Imperial Hotel, Paragon Street, at 6.15 p.m.
Leicester: "Executorship III, Statutory and Equitable Apportionments," by Mr. D. A. Lewis. Students' meeting. Bell Hotel, Humberstone Gate, at 6 p.m.
Manchester: "Executorship Accounts," by Mr. J. Linahan, A.S.A.A. Students' meeting. Incorporated Accountants' Hall, 90 Deansgate, at 6 p.m.*
February 15.—*Brighton:* "The Presentation of Computations and Schedules to the Inspector of Taxes," by Mr. A. R. English, A.C.A. Intermediate Students' meeting. Technical College Annexe, 7 St. George's Place, at 10.30 a.m.
Hastings: "The Will; Intestacy; Probate and the Distribution of the Estate," by Mr. S. G. Maurice, Barrister-at-Law. Students' meeting. Chatsworth Hotel, Carlisle Parade, at 10.45 a.m.
Manchester: "Auditing (IV) and (V)," by Mr. J. C. F. Bolton, B.A.(COM.), A.C.A. Intermediate Students' lecture. Onward Hall, 207 Deansgate, at 9.30 a.m. and 11 a.m.
Manchester: "Consolidated Accounts (II) and (III)," by Mr. R. Y. Taylor, B.A., A.C.A. Final Students' meeting. 46 Fountain Street, at 9.30 a.m. and 11 a.m.
Preston: "Executorship Accounts (I) and (II)," by Mr. H. C. Cox, F.C.A. Intermediate Students' lectures. Reform Club, Chapel Street, at 10 a.m. and 11.15 a.m.
Preston: "Auditing (I) and (II)," by Mr. T. W. E. Booth, F.C.A. Final Students' lectures. Reform Club, Chapel Street, at 10 a.m. and 11.15 a.m.
February 17.—*Coventry:* "The Accounts of an Executor," by Mr. P. E. Harris, A.S.A.A. Students' meeting. "Golden Cross," Hay Lane, at 6 p.m.
Luton: "Theory of Amalgamations," by Mr. K. S. Carmichael, A.C.A. Students' meeting. Chamber of Commerce, at 5.30 p.m.*
February 18.—*Birmingham:* "Professional Education," by Mr. Bertram Nelson, C.B.E., F.C.A., J.P. Regent House, St. Philip's Place, Colmore Row, at 6 p.m.
Derby: To be arranged. Midland Hotel, at 6.15 p.m.
London: "Latest Developments in Bids and Deals," by Mr. R. G. Middleton, Solicitor. Hall of the Chartered Insurance Institute, 20 Aldermanbury, E.C.2, at 6 p.m.
February 19.—*Birmingham:* Visit to a colliery in the Cannock Chase.
Nottingham: Balloon debate. Elite Cinema, Parliament Street, at 5.30 p.m.
Wolverhampton: Students' annual dance. Star and Garter Hotel.
February 20.—*Bristol:* Taxation discussion group, at the invitation of the Association of H.M. Inspectors of Taxes. Crown and Dove Hotel, Bridewell Street, at 6 p.m.
Grimsby: "Machine Accounting," by Mr. J. A. Pernyes, A.A.C.C.A. Students' meeting. Offices of the Chamber of Commerce, 77 Victoria Street, at 7.30 p.m.
Hull: "Flotations and Prospectuses," by Mr. C. R. Curtis, M.SC., PH.D., F.C.I.S. Students' meeting. Church Institute, Albion Street, at 6.15 p.m.*
Liverpool: "Whether to Stay in Practice or Go into Practice," argued by Mr. J. F. Allan, F.C.A., and Mr. C. J. Peyton, A.C.A. Library, 5 Fenwick Street, at 5 p.m.
Manchester: "Income Tax Schedule D Cases I and II: Allowable Deductions," by Mr. T. L. Crispin, A.C.A. Students' meeting. Chartered Accountants' Hall, 46 Fountain Street, at 6 p.m.
Norwich: "Taxation," by Mr. H. A. R. J. Wilson, F.C.A. Royal Hotel, at 7 p.m.*
Oxford: "Accountants' Work in Industry," by Mr. J. S. Kean, C.A. Forum Restaurant, High Street, at 6.30 p.m.
Taunton: "Executorship Law," by Mr. R. D. Penfold, Barrister-at-Law. Students' meeting. County Hotel, at 2.30 p.m.
Taunton: "Legal Topics," by Mr. R. D. Penfold, Barrister-at-Law. County Hotel, at 6.15 p.m.
February 21.—*Birmingham:* Debate between Birmingham and London students. 36 Cannon Street, at 6 p.m.
Bournemouth: "Inflation," by Mr. M. Lickiss, B.SC.(ECON.). Students' meeting. Grand Hotel, Fir Vale Road, at 4.30 p.m.
Bradford: Lecture and film show on Hollerith Accounting Machines, by the British Tabulating Machine Co. Ltd. Students' meeting. Midland Hotel, at 4.30 p.m. and 6.15 p.m.
Leicester: "Cost Accounts—Budgetary Control," by Mr. C. R. Curtis, M.SC.(ECON.), PH.D., F.C.I.S. Students' meeting. Bell Hotel, Humberstone Gate, at 6 p.m.
Manchester: "Economics," by Mr. A. R. Ilersic, B.COM. Students' meeting. Incorporated Accountants' Hall, 90 Deansgate, at 6 p.m.*
Southampton: "Partnership Changes and Losses," by Mr. B. J. Westwood, A.C.A. Students' meeting. Polygon Hotel, at 6.30 p.m.

Personal Notes

Sir Richard Yeabsley, C.B.E., F.C.A., has been appointed financial adviser to the Board of Idris Ltd.

Mr. A. H. Cross, A.A.C.C.A., A.C.I.S., and Mr. P. W. Rowlatt, C.A., announce that they have admitted into partnership Mr. F. J. Hammond, A.S.A.A. The practice is being continued under the style of Lewis, Cross, Rowlatt & Co., at 30 High Street, Newport, Isle of Wight.

The Luton practices of Messrs. R. A. Hillier & Co. and Messrs. Hills & Burgess have been merged. Mr. John Hillier, A.S.A.A., Mr. E. John Frary, A.S.A.A., and Mr. A. H. Hills, A.C.A., are now practising at Victoria House, 26 Victoria Street, Luton, under the firm name of Hillier, Hills, Frary & Co. Mr. H. A. Burgess continues to be available for consultation. The Leighton Buzzard practice of Messrs. Hills and Burgess continues as hitherto, and Mr. Hillier and Mr. Frary have become partners in it.

Mr. Maurice Tattersfield, A.C.A., F.C.C.S., has been appointed an executive director of the Board of the Brush Group Ltd. He has relinquished the appointment of managing director of Brush Electrical Engineering Co. Ltd., Loughborough, but remains a non-executive director of that company.

Mr. Percy F. Hughes, A.S.A.A., F.C.I.S., has been appointed chairman and managing director of Gee & Co. (Publishers) Ltd. and Editor-in-Chief of *The Accountant* in place of the late Mr. Ronald Staples.

Mr. Irving Buck, Mr. Norman Rutter, Mr. Stanley Morris, Mr. E. Graham Lee and Mr. E. L. Ashton have withdrawn from the firm of John Stubbs, Parkin & Co., Chartered Accountants, Liverpool and Market Drayton. The practice is being continued under the same style by Mr. E. D. Sanders and Mr. J. P. C. Gothard.

The partnership between Mr. John R. Lane and Mr. D. W. Dewdney, hitherto practising at Sevenoaks under the style of John R. Lane & Co., Incorporated Accountants, has been dissolved. Mr. Lane is continuing the practice at Sevenoaks under the same style. Mr. Dewdney is practising at 31A High Street, South Norwood, London, S.E.25.

Obituary

Cecil Henry Lepine

WE RECORD WITH regret that Mr. C. H. Lepine, A.C.A., died on December 3, at the age of 76. He became a member of the Institute in 1906, and in the same year entered into partnership with the late Mr. Walter Langton, F.S.A.A., in the firm of Langton and Lepine, in the City of London. After the death of Mr. Langton he practised for several years in partnership with Mr. Louis B. Jackson, A.C.A., and subsequently with Mr. E. E. Hallam, A.C.A. The present firm of Goddard, Mellarsh and Lepine, Chartered Accountants, was formed by an amalgamation in 1956.

Mr. Lepine was for many years chairman of the Reliance Fire and Accident Insurance Corporation Ltd.

He was held in high esteem by his clients and staff, who valued his friendliness and constant readiness to help and encourage.

John Raymond Maskell

WE REGRET TO announce the death on November 17 of Mr. J. R. Maskell, F.S.A.A., at the age of 79. Mr. Maskell was senior partner in Messrs. Leacher, Stephens & Co., London, E.C.4. He qualified as an Incorporated Accountant in 1914, after training in the firm's office, and was admitted to partnership forty years ago.

Classified Advertisements

Two shillings and sixpence per line (average seven words). Minimum ten shillings. Box numbers one shilling extra. Replies to Box Number advertisements should be addressed Box No. . . . c/o ACCOUNTANCY, *23 Essex Street, London, W.C.2, unless otherwise stated. It is requested that the Box Number be also placed at the bottom left-hand corner of the envelope.*

APPOINTMENTS REGISTER OF THE INSTITUTE OF CHARTERED ACCOUNTANTS IN ENGLAND AND WALES

Employers who have vacancies for members on their staffs and also members seeking new appointments are invited to make use of the facilities provided by the Institute's Appointments Register. No fees are payable. All enquiries should be addressed to the Appointments Officer, Moorgate Place, London, E.C.2. Tel. Monarch 8506.

APPOINTMENTS VACANT

ACCOUNTANTS—NIGERIA. Chartered or Incorporated Accountants required for professional offices in Nigeria. Work involves limited travelling, therefore single men preferred but married men would be considered and if engaged, free passage for wife would be provided. Salary according to experience, but for a newly-qualified man would not be less than £1,300 per annum. Tours of approximately 18 months with generous leave on full salary. Free furnished quarters; Provident Fund; initial kit allowance £60; very low income tax. Fullest possible particulars to Box No. 772, DORLAND ADVERTISING LTD., 18-20 Regent Street, S.W.1.

ACCOUNTANCY Staff from Articled to top salaried ACCOUNTING & TAXATION APPTS. NO FEES TO STAFF, CONDUIT ST. BUREAU (GRO: 7080) 4 Conduit St., Oxford Circus, W.1. Open daily 8.30 to 7.30: Sats. 9-1.

ACCOUNTANTS required by NIGERIAN FEDERAL GOVERNMENT Marketing and Exports Department, on contract for tour of 12/24 months in first instance. Salary in scale (including Inducement Addition) £1,290 rising to £1,962 a year. Gratuity at rate of £150 a year. Outfit allowance £60. Free passages for officer and wife. Assistance towards children's passages and grant up to £150 annually towards maintenance in United Kingdom. Liberal leave on full salary. Candidates must possess recognised accountancy qualification and wide commercial accounting experience, including knowledge of Banking and Shipping practices. Write to the CROWN AGENTS, 4 Millbank, London, S.W.1. State age, name in block letters, full qualifications and experience, and quote MIB/44460/AD.

ACCOUNTANTS—WEST AFRICA. Two young Chartered or Incorporated Accountants required for professional offices in Ghana and Nigeria. The work involves limited travelling, therefore single men preferred, but married men would be considered and if engaged free passage for wife would be provided. Initial salary rate not less than £1,300 per annum. Tours of approximately 18 months with generous leave on full salary. Free furnished quarters. Provident Fund. Initial Kit allowance £60. Very low income tax. Fullest possible particulars to Box No. 730, DORLAND ADVERTISING LTD., 18-20 Regent Street, S.W.1.

APPLICANTS with the necessary experience requiring BETTER positions as Senior, Semi-senior and Junior AUDIT CLERKS should contact us. We have a good selection. Other Professional and Commercial posts available. HOLMES BUREAU, 10 Queen Street, E.C.4. City 1978.

ASSISTANT SECRETARY/COST ACCOUNTANT required by Trade Federation, with prospects of promotion to Secretary on near retirement of present Secretary. The post is an interesting one covering, initially, the development of a standard costing system for the trade. Applicants must have a pleasant but forceful personality and be able and anxious to work on their own initiative—age 30-45. Starting salary up to £1,000 according to qualifications and experience. Apply in confidence to the Secretary, MIDLAND HOSIERY DYERS' & FINISHERS' FEDERATION, Charnwood Chambers, Market Place, Loughborough, Leicestershire.

AUDIT CLERKS. Many vacancies waiting for Senior, Semi-senior or Junior. Call BOOTH'S AGENCY, 80 Coleman St., Moorgate, E.C.2.

COMMONWEALTH OF AUSTRALIA DEPARTMENT OF THE TREASURY BUDGET AND ACCOUNTING BRANCH —CANBERRA

Position: Chief Finance Officer, Grade 2.
Salary: £2,433-£2,763 (Aust. Currency).
Duties: Direction and control of major investigations and research into accounting systems and procedures, with particular emphasis on development of mechanised accounting and application of electronic equipment.
Qualifications: Degree or Diploma in accountancy or economics or commerce with major in accountancy desirable. Applicants should also possess extensive practical accounting experience, particularly in governmental accounting, experience in investigation and implementation of accounting systems, and in direction of staff employed on this type of work.
Conditions: First class boat fares for the appointee and dependants (wife and dependant children) will be paid under specified conditions by the Commonwealth of Australia. Housing accommodation may be available.
Applications: The Chief Finance Officer, AUSTRALIA HOUSE, London, W.C.2, by 24th February, 1958.

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